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Contents

Federal Register

Vol. 57, No. 183

Monday, September 21, 1992

Agricultural Marketing Service
RULES
Dates (domestic) produced or packed in California, 43335

Agricultural Stabilization and Conservation Service
RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco, 43580

Agriculture Department
See Agricultural Marketing Service
See Agricultural Stabilization and Conservation Service
See Commodity Credit Corporation
See Food Safety and Inspection Service
See Forest Service

Army Department
NOTICES
Military traffic management:
Personnel property performance bond policy, 43443

Census Bureau
NOTICES
Meetings:
American Economic Association Advisory Committee et al., 43438

Centers for Disease Control
NOTICES
Committees; establishment, renewal, termination, etc.:
Prevention Centers Grant Review Committee, 43460

Civil Rights Commission
NOTICES
Senior Executive Service:
Performance Review Board; membership, 43438

Coast Guard
RULES
Marine pollution financial responsibility and compensation:
Oil spill liability trust funds; claims and procedures collection [Editorial Note: This document, appearing at page 41104 of the Federal Register of September 9, 1992, was incorrectly indexed in that issue's table of contents.]
Navigation aids:
Obstructions; hazard definitions and guidelines, 43401
PROPOSED RULES
Vessel documentation and measurement:
Controlling interest, 43432
NOTICES
Load lines:
Special service Great Lakes limited domestic voyage, 43479

Commerce Department
See Census Bureau
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Myanmar; correction, 43440
Special access and special regime programs; participation denial:
Fashion Enterprises, 43440

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco, 43580

Customs Service
RULES
Air commerce:
Airports; international, landing rights, and user fee, 43395
NOTICES
Petroleum products; approved public gauger:
Sabine Surveyors, Inc., 43493

Defense Department
See Army Department
See Defense Mapping Agency
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 43409, 43495
NOTICES
Agency information collection activities under OMB review, 43440, 43441
Meetings:
Dependents' Education Advisory Council, 43441
Science Board task forces, 43441
Privacy Act:
Systems of records, 43442

Defense Mapping Agency
NOTICES
Nautical, aeronautical and flight information publications; public sale, 43444

Drug Enforcement Administration
RULES
Schedules of controlled substances:
Aminorex, 43399
NOTICES
Applications, hearings, determinations, etc.:
Cambridge Isotope Lab, 43469
Celgene Corp., 43470
Diagnostic Products Corp., 43470
Eli Lilly Industries, Inc., 43470
Minn-Dak Growers Ltd., 43471

Education Department
PROPOSED RULES
Special education and rehabilitative services:
Individuals with Disabilities Education Act; implementation—
Regional resource and federal centers, 43572
NOTICES
Grants and cooperative agreements; availability, etc.:
Bilingual vocational instructor training program, 43534

Bilingual vocational training program, 43552
Children with disabilities early education program, 43444
Direct grant and fellowship programs, 43498
Educational media research, production, distribution, and training program, 43444, 43528

Employment and Training Administration
RULES
Alien crewmembers for longshore activities in U.S. ports; attestations by employers
Correction, 43495
NOTICES
Adjustment assistance:
Compaq Computer Corp., 43475
Global Marine Drilling Co., 43476
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—
Indian and Native American employment and training programs (1993-1994 program years); designation procedures for grantees, 43471

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
See Western Area Power Administration
NOTICES
Grant and cooperative agreement awards:
College of Santa Fe, 43447
Eastern New Mexico University, 43445
New Mexico Highlands University, 43445
New Mexico State University, 43445
Ohio Department of Development, 43446
Reservoir Engineering Research Institute, 43446
University of—
New Mexico, 43446
Vanderbilt University, 43447
Western New Mexico University, 43448
Grants and cooperative agreements; availability, etc.:
Science and technology education program, 43447
Natural gas exportation and importation:
International Resource Management Corp. et al., 43452
Powerplant and industrial fuel use; new electric powerplant coal capability; compliance certifications:
Nissequogue Cogen Partners, 43454

Energy Research Office
NOTICES
Meetings:
Basic Energy Science Advisory Committee, 43452

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
Municipal waste combustors; negative determination, Mississippi, 43405
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 43420, 43423
Virginia, 43425
Water pollution control:
Ocean dumping; site designations—
Columbia River, OR and WA, 43427
NOTICES
Agency information collection activities under OMB review, 43455
Air programs:
Ambient air monitoring reference and equivalent methods—
Lear Siegler Measurement Controls Corp.; Monitor Labs Models 9850 Sulfur Dioxide Analyzer and 9810 Ozone Analyzer, 43456
Meetings:
Toxic Release Inventory Environmental Indicator, 43456
Superfund response and remedial actions, proposed settlements, etc.:
Lynn Pierce Property Site, NC, 43457
Toxic and hazardous substances control:
Premanufacture notices receipts, 43457

Executive Office of the President
See Presidential Documents

Farm Credit Administration
RULES
Farm credit system:
Organization; director compensation, 43393
Personnel administration, etc.—
Human resources, and retirement and thrift savings plans; regulations removed, 43394

Federal Aviation Administration
NOTICES
Airport noise compatibility program:
Decatur Airport, IL, 43482
Meetings:
Air Traffic Procedures Advisory Committee, 43483
Passenger facility charges; applications, etc.:
Key West International Airport, FL, 43483
Marathon Airport, FL, 43484

Federal Communications Commission
RULES
Common carrier services:
Overseas communications facilities; capital interests conveyances between or among U.S. carriers; depreciated-original-cost standard in setting prices
Correction, 43406
Radio services, special:
Maritime services—
Data emissions on marine public correspondence channels in 156-162 MHz band, 43406
Private land mobile services—
Specialized radio service; co-channel transmitters; short-spacing, 43408
PROPOSED RULES
Frequency allocations and radio treaty matters:
Low-earth orbit satelites above 1 GHz, 43434

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 43448
Granite State Gas Transmission, Inc., 43448
Mississippi River Transmission Corp., 43449
Natural Gas Pipeline Co. of America, 43449
North Penn Gas Co., 43450
Northwest Pipeline Corp., 43450
Questar Pipeline Co., 43450
Texas Gas Transmission Corp., 43450

Transcontinental Gas Pipe Line Corp., 43451
Trunkline Gas Co., 43451
Viking Gas Transmission Co., 43452
West Texas Gas, Inc., 43452

Federal Maritime Commission
NOTICES
Agreements filed, etc.; correction, 43495
Freight forwarder licenses:
Aimi Cargo Forwarding, Inc., et al., 43457
Foreign Commerce, Inc., et al., 43457

Federal Reserve System
RULES
Prohibition against interest payment on demand deposits (Regulation Q), 43336
Truth in savings (Regulation DD), 43337
NOTICES
Applications, hearings, determinations, etc.:
City Holding Co. et al., 43458
First Community Bancorp, Inc., et al., 43458
Hopkins, Meade C., et al., 43459
Key Corp et al., 43459
Prairieland Bancorp, Inc., et al., 43460

Fish and Wildlife Service
NOTICES
Agency information collection activities under OMB review, 43469

Food and Drug Administration
RULES
Food additives:
Polymers—
Ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer, 43398
Organization, functions, and authority delegations:
Center for Food Safety and Applied Nutrition, 43397
NOTICES
Meetings:
Advisory committees, panels, etc., 43461

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Poultry products; irradiation, 43588

Forest Service
NOTICES
Meetings:
Grand Island Advisory Commission, 43438

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 43409, 43495

Geological Survey
PROPOSED RULES
Regulations for obtaining federal assistance in financing explorations for mineral reserves excluding organic fuels, in U.S., territories, and possessions; removal, 43411

Health and Human Services Department
See Centers for Disease Control
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 43462

Health Resources and Services Administration
See Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
General internal medicine and pediatrics—
Residency training, 43464

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 43454

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Crow Creek Indian Reservation, SD, 43586
Tulalip Indian Reservation, WA, 43578

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See Land Management Bureau
See Mines Bureau
NOTICES
National Register of Historic Places;
Culpeper County, VT; Battle of Brandy Station; unilateral determination of eligibility withdrawn, 43467

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 43469

Justice Department
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
See Pension and Welfare Benefits Administration
See Wage and Hour Division

Mine Safety and Health Administration
NOTICES
Safety standard petitions:

Land Management Bureau
RULES
Public lands orders:
California, 43405
NOTICES
Alaska Native claims selection:
Olgoonik Corp., Inc., 43467
Realty actions; sales, leases, etc.:
California, 43468
California; correction, 43495
Withdrawal and reservation of lands:
Nevada, 43468
Zeigler Coal Co. et al., 43476

Mines Bureau
PROPOSED RULES
Grants programs; CFR Part removed, 43412
Payments required for owners of private lands upon which Mines Bureau performs exploration or development work to investigate known coal deposits; CFR Part removed, 43411

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 43409, 43495
NOTICES
Meetings:
Space Systems and Technology Advisory Committee, 43477

National Institutes of Health
NOTICES
Meetings:
National Library of Medicine, 43467

National Oceanic and Atmospheric Administration
RULES
Tuna, Atlantic bluefin fisheries, 43409
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
Heniford, Davis, 43439
Meetings:
Marine Fisheries Advisory Committee, 43440

National Science Foundation
NOTICES
Agency information collection activities under OMB review, 43477
Meetings:
Chemical and Thermal Systems Special Emphasis Panel, 43478

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 43478

Patent and Trademark Office
PROPOSED RULES
Patent cases:
Practice and procedure; miscellaneous amendments, 43412

Pension and Welfare Benefits Administration
NOTICES
Plan administrators; failure to file timely Form 5500 annual reports; civil penalties; top hat plans and pre-grace period late filers; guidance, 43477

Postal Rate Commission
NOTICES
Meetings; Sunshine Act, 43494

Postal Service
RULES
Domestic Mail Manual:
Sharps and unsterilized containers and devices; mailability, 43403
NOTICES
Domestic rates, fees, and mail classifications; schedule
Nonprofit mail, non-letter size bulk third-class; preferred rate adjustments, 43478

Presidential Documents
ADMINISTRATIVE ORDERS:
North American Free Trade Agreement With Canada and Mexico (Notice of September 18, 1992), 43603

Public Health Service
See Centers for Disease Control
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Meetings:
President's Council on Physical Fitness and Sports, 43467

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 43494

State Department
NOTICES
Meetings:
Defense Trade Advisory Group, 43479

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Customs Service
NOTICES
Agency information collection activities under OMB review, 43484
Notes, Treasury:
AE-1994 series, 43486
R-1997 series, 43489
Privacy Act:
Systems of records, 43485

United States Information Agency
NOTICES
Cultural property:
Mali; import restrictions on archaeological and ethnological material, 43493

Wage and Hour Division
RULES
Alien crewmembers for longshore activities in U.S. ports; attestations by employers
Correction, 43495

Western Area Power Administration
NOTICES
Grant and cooperative agreement awards:
Colorado State Soil Conservation Board, 43455

Separate Parts In This Issue

Part II
Department of Education, 43498

Part III
Department of Education, 43528

Part IV
Department of Education, 43534

Part V
Department of Education, 43552

Part VI
Department of Education, 43572

Part VII
Department of the Interior, Bureau of Indian Affairs, 43578

Part VIII
Department of Agriculture, Agricultural Stabilization and Conservation Service and Commodity Credit Corporation, 43580

Part IX
Department of the Interior, Bureau of Indian Affairs, 43586

Part X
Department of Agriculture, Food Safety and Inspection Service, 43588

Part XI
The President, 43603

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Notices:
September 18, 1992..... 43603

7 CFR
723..... 43580
987..... 43335
1464..... 43580

9 CFR
381..... 43588

12 CFR
217..... 43336
230..... 43337
611..... 43393
612..... 43394

19 CFR
122..... 43395

20 CFR
655..... 43495

21 CFR
5..... 43397
177..... 43398
1308..... 43399

29 CFR
506..... 43495

30 CFR
Proposed Rules:
400..... 43411
609..... 43411
651..... 43412

33 CFR
64..... 43401

34 CFR
Proposed Rules:
305..... 43572

37 CFR
Proposed Rules:
1..... 43412
5..... 43412
10..... 43412

39 CFR
111..... 43403

40 CFR
62..... 43405
Proposed Rules:
52 (3 documents)..... 43420–43425
228..... 43427

43 CFR
Public Land Orders:
2460 (Revoked in part by PLO 6945)..... 43405
6945..... 43405

46 CFR
Proposed Rules:
67..... 43432

47 CFR
1..... 43406
80..... 43406
90..... 43408
Proposed Rules:
2 (2 documents)..... 43434

48 CFR
30 (2 documents)..... 43409, 43495
52 (2 documents)..... 43409, 43495

50 CFR
285..... 43409

Rules and Regulations

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV-92-073]

Domestic Dates Produced or Packed in Riverside County, California; Increase in Expenses for 1991-92 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes an increase in expenses for the California Date Administrative Committee (Committee), established under Marketing Order 987, for the 1991-92 crop year (October 1, 1991, through September 30, 1992). The expenses are increased from $479,400 to $634,400. The $155,000 increase is needed to cover advertising and promotion expenditures in excess of those authorized in the Committee's 1991-92 budget.

EFFECTIVE DATE: October 1, 1991, through September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Kellee Hopper, Marketing Specialist, Marketing Order Administration Branch, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487-5901, or Valerie L. Emmer, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 205-2829.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 987 (7 CFR part 987) regulating the handling of domestic dates produced or packed in Riverside County, California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act".

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. This rule authorizes an increase in expenditures for the Committee for the remainder of the 1991-92 fiscal period. This rule will not preempt any State or local laws, regulations or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of California dates regulated under this marketing order each season, and approximately 135 date producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

A final rule establishing expenses in the amount of $479,400 for the Committee for the fiscal year ending September 30, 1992, was published in the **Federal Register** on October 8, 1991 (56 FR 50647). That action also fixed the assessment rate to be levied on date handlers during the 1991-92 fiscal period.

At its April 23, 1992, meeting, the Committee unanimously recommended that its 1991-92 budget be increased by $155,000, to cover additional expenses in the Committee's market promotion and advertising program. These expenditures are in excess of those approved by the Department. Therefore, authorized expenses for the 1991-92 crop year are increased from $479,400 to $634,400. Adequate funds are available to cover the additional expenses. Hence, no increase in the assessment rate was recommended by the Committee.

The Administrator of the AMS has determined that this action will not have significant economic impact on a substantial number of small entities.

Notice of this action was published in the **Federal Register** on July 17, 1992 [57 FR 31670] and interested persons were invited to comment through July 27, 1992. No comments were received.

After consideration of the information and recommendation submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because the 1991-92 fiscal year for California dates ends September 30, 1992, and the Committee needs authority

to cover the additional expenses during the remainder of the 1991–92 fiscal year.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, § 987.336 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 987.336 [Amended]

2. Section 987.336 is amended by changing "$479,400" to "$634,400."

Note: This section will not appear in the Code of Federal Regulations.

Dated: September 16, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–22777 Filed 9–18–92; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–0775]

Prohibition Against the Payment of Interest on Demand Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is retitling and amending Regulation Q in conjunction with its adoption of Regulation DD, which implements the Truth in Savings Act. Since Regulation DD provides for rules relating to advertisements and other disclosures for deposit accounts, similar provisions in Regulation Q are deleted. Regulation Q retains provisions prohibiting the payment of interest on demand deposits.

EFFECTIVE DATE: March 21, 1993.

FOR FURTHER INFORMATION CONTACT: Patrick J. McDivitt, Staff Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3818; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

(1) Background

Section 19(i) of the Federal Reserve Act (FRA) (12 U.S.C. 371(a)) prohibits member banks from paying interest on demand deposits, and section 19(a) of the FRA (12 U.S.C. 461(a)) authorizes the Board to define terms and prescribe regulations to effectuate the purposes of the section. Section 19(j) of the FRA authorizes the Board to prescribe rules governing the advertisement of interest on deposits by member banks on time and savings deposits. Currently, Regulation Q prohibits the payment of interest on demand deposits and sets forth disclosure and advertising requirements for interest on deposits by member banks and certain other institutions.

The Truth in Savings Act (12 U.S.C. 4301) directs the Board to issue an implementing regulation, which shall apply six months after the final regulation is issued. The purpose of the regulation is to assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of account terms, including the annual percentage yield and the interest rate, whenever a consumer requests the information and before an account is opened. The regulation also provides for rules regarding advertisements of deposit accounts. On April 13, 1992, the Board published a proposed rule, 57 FR 12735 (correction notice at 57 FR 22021, May 26, 1992).

The Board requested comment on whether certain provisions in the Board's Regulation Q dealing with advertising and other disclosure rules should be included in Regulation DD and removed from Regulation Q. Commenters strongly endorsed the idea of consolidating the requirements of these two regulations. Based on comments received to proposed Regulation DD and upon further analysis, the Board is amending Regulation Q to eliminate its advertising provisions, effective on March 21, 1993, the mandatory compliance date for Regulation DD. (See Docket R–0753 published elsewhere in this issue of the **Federal Register**, which sets forth Regulation DD.) Institutions that begin compliance with Regulation DD prior to the mandatory compliance date may comply solely with the advertising provisions of Regulation DD, and not the advertising and disclosure provisions in Regulation Q.

All rules relating to disclosures and the advertisement of deposit accounts are deleted from Regulation Q. Rules relating to the prohibition of interest on demand deposits remain in the regulation, which is retitled, "Prohibition Against the Payment of Interest on Demand Deposits," to reflect the subject it addresses. All interpretations to 12 CFR part 217 are deleted, with the exception of § 217.302 (premiums on deposits). This interpretation relates to the payment of interest on demand deposits, and is redesignated as § 217.101.

List of Subjects in 12 CFR Part 217

Federal Reserve System.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 217 as follows:

PART 217—PROHIBITION AGAINST THE PAYMENT OF INTEREST ON DEMAND DEPOSITS

1. The authority citation for part 217 is revised to read as follows:

Authority: 12 U.S.C. 248, 371a, 461, 505, 1818, and 3105.

2. The heading of part 217 is revised to read as set forth above.

3. In § 217.1, paragraphs (a) and (b) are revised to read as follows:

§ 217.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the authority of section 19 of the Federal Reserve Act (12 U.S.C. 371a, 461, 505), section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), section 11 of the Federal Reserve Act (12 U.S.C. 248), and section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), unless otherwise noted.

(b) *Purpose.* This part prohibits the payment of interest on demand deposits by member banks and other depository institutions within the scope of this part.

* * * * *

§§ 217.4, 217.6, 217.201; 217.301, 217.601, 217.602, and 217.603 [Removed]

4. Sections 217.4, 217.6, 217.201, 217.301, 217.601, 217.602, and 217.603 are removed.

§ 217.302 [Redesignated as § 217.101]

5. Section 217.302 is redesignated as § 217.101.

By order of the Board of Governors of the Federal Reserve System, September 11, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–22479 Filed 9–18–92; 8:45 am]

BILLING CODE 6210–01–M

12 CFR Part 230

[Reg. DD; Docket No. R-0753]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting a new regulation, Regulation DD, to implement the Truth in Savings Act. The act and regulation require depository institutions to disclose fees, interest rates and other terms concerning deposit accounts to consumers before they open accounts. The act requires depository institutions that provide periodic statements to consumers to include information about fees imposed, interest earned and the annual percentage yield earned on those statements. The act and regulation impose substantive limitations on the methods by which institutions determine the balance on which interest is calculated. Rules dealing with advertisements for deposit accounts are also included in the new regulation.

DATES: This final rule is effective September 21, 1992, but compliance is optional until March 21, 1993.

FOR FURTHER INFORMATION CONTACT: Leonard Chanin, Senior Attorney, or Jane Ahrens, Kurt Schumacher, or Mary Jane Seebach, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 736-5500; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544. For information about the Board's action concerning the recordkeeping and disclosure requirements under the Paperwork Reduction Act only, contact Mary McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3829, or Gary Waxman, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503, at (202) 395-7340.

SUPPLEMENTARY INFORMATION:

(1) Background

The Truth in Savings Act (the act) (12 U.S.C. 4301 et seq., contained in the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102-242, 105 Stat. 2236) was enacted in December 1991. The act directs the Board to issue final regulations by September 1992, and provides that the statutory provisions and rules adopted by the Board shall apply six months after that. On April 13, 1992, the Board published a proposed rule to implement the act, 57 FR 12735 (correction notice at 57 FR 22021, May 26, 1992).

The purpose of the regulation is to assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, the annual percentage yield, the interest rate, and other account terms whenever a consumer requests the information and before an account is opened. The regulation also requires that fees and other information be provided on any periodic statement the institution sends to the consumer. Rules are set forth for advertisements of deposit accounts and advance notices to account holders of adverse changes in terms. The regulation places one substantive restriction on institutions' practices: How institutions determine the account balance on which interest is calculated.

The Board is publishing sample disclosure forms and model clauses to assist institutions in preparing their account disclosures. They appear in appendix B to the proposed regulation.

(2) Regulatory Provisions

The act is quite detailed and, for the most part, the regulation mirrors the statutory requirements. The act recognizes that implementation of a comprehensive scheme such as this may require some adjustments and, in section 269(a)(3), it authorizes the Board to make such classifications, differentiations, adjustments and exceptions as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act. In addition, section 265 of the act authorizes the Board to vary the requirements relating to the annual percentage yield for several particular types of accounts. In several circumstances, as discussed in the information that follows, the Board has used these grants of authority.

The section-by-section description which follows points out those provisions that differ in any significant way from the act—for example, creating an exception to a statutory provision, adding a disclosure, or departing significantly from the language of the act—and explains why the differences exist. In those cases where the act is not specific and parallel rules would be beneficial, the Board has frequently used definitions and provisions from its other consumer regulations (for example, Regulation Z (12 CFR part 226), which implements the Truth in Lending Act, and Regulation E (12 CFR part 205), which implements the Electronic Fund Transfer Act).

The section-by-section description indicates any significant differences between the proposal and the final regulation. The supplementary information addresses concerns raised by commenters, and provides guidance on many questions raised. The Board expects that much of the discussion below will be included in the Official Staff Commentary to the regulation. Since the Board does not plan to issue a proposed commentary until the fall of 1993, the section-by-section description was drafted with the purpose of providing institutions the necessary guidance until the commentary is published. One consequence of providing such guidance is that the supplementary information section is lengthy. The Board believes it will more fully assist institutions in complying with the new regulation.

The Board received over 1400 comment letters on the proposal, with all but about 100 from institutions that would be covered by the regulation or their trade associations. A number of commenters questioned the need for the act and raised concerns about the burden and costs the new requirements would impose. Many of the commenters, however, provided information that has been useful to the Board in preparing a final rule. A significant number of commenters raised specific questions about various provisions in the proposal, and the Board has responded to many of those concerns by adopting both substantive and technical changes to the proposal.

In examining the proposal and the issues raised by the commenters, the Board used several principles in fashioning the final regulation. First, the Board has closely followed the provisions set forth by the Congress in the act. In a few cases, where statutory provisions simply elaborate on one basic requirement, the regulation contains only the basic requirement, and the supplementary information reflects the elaboration of that requirement. The Board believes this approach provides a more concise regulation without losing the additional information the Congress wanted.

Second, the Board has attempted to write precise, simple rules to help ensure that institutions understand the requirements of the act. The Board believes this will minimize the

possibility of errors and the potential for civil liability due to complicated or vague requirements. Exceptions to rules have been carefully considered and in several cases adopted in the final regulation. However, the Board is mindful that special rules add to the length, detail and complexity of the regulation. It has taken this into account, especially when considering suggestions for minor exceptions that would add significant complexity to the rules.

Third, the Board has sought to ensure that the disclosures provided to consumers are clear and meaningful. The Board believes providing overly complicated or technical disclosures to consumers provides little value in shopping for accounts and may diminish the value of information given.

Fourth, the Board has sought to provide institutions with flexibility to minimize compliance costs. It has also tried to minimize the possibility that institutions will unnecessarily reduce the variety of existing product choices offered to consumers. Similarly, the Board has tried to ensure that the compliance requirements do not have the effect of limiting the development of new products for consumers.

Fifth, the Board has used its "exception" authority judiciously. The Board has made adjustments and exceptions to the act when essential to assist consumers in comparing accounts and to minimize significant compliance problems for institutions.

In conjunction with the implementation of the act, the Board also is amending its Regulation Q (12 CFR part 217). (See Docket R–0775 published elsewhere in this issue of the **Federal Register**.) Currently, Regulation Q prohibits the payment of interest on demand deposits and sets forth disclosure and advertising requirements for interest on deposits by member banks and certain other institutions. (Other federal financial regulatory agencies have similar advertising rules, such as 12 CFR 329.3, issued by the Federal Deposit Insurance Corporation (FDIC).) Given this regulation's comprehensive disclosure and advertising rules for deposit accounts, the Board is deleting advertising and other disclosure rules in Regulation Q. The Board has consulted with the other agencies to try to ensure that all depository institutions are governed by the same rules, and expects that the agencies will eliminate any inconsistent rules in light of the new act.

The amendments to Regulation Q become effective on March 21, 1993, the mandatory compliance date for Regulation DD. Institutions that begin compliance with Regulation DD prior to the mandatory compliance date may comply solely with the advertising provisions of Regulation DD.

Section 230.1—Authority, Purpose, Coverage, and Effect on State Laws

Paragraph (c)—Coverage

This paragraph has been revised from the proposal. First, the final rule reflects the fact that a definition of deposit broker has been added to the regulation. Although many commenters requested that securities brokers and dealers be fully covered by the regulation, neither is included in the definition of a "depository institution" under the act and regulation. As discussed in §§ 230.2(a) and 230.8, however, the advertising rules apply to deposit brokers who advertise deposit accounts.

The proposal stated that the regulation applies to all depository institutions except credit unions. A number of commenters also urged that the Board's final regulation cover credit unions. The act explicitly states that credit unions are to be covered by rules issued by the National Credit Union Administration (NCUA), not the regulation issued by the Board.

Paragraph (d)—Effect on State Laws

Section 273 of the act provides a narrow standard for preemption of state laws (only if they are inconsistent), and refers only to state disclosure laws. The Board solicited comment on whether the same preemption standard should apply to all provisions in the act, including § 230.7, dealing with the payment of interest. Many commenters urged the Board to adopt a rule that applied the same standard to such provisions as well as to the disclosure rules, thus enabling the Board to make preemption determinations on such issues. The Board believes that under general preemption standards a state law could not require what federal law prohibits. (For example, a state law could not permit use of a low balance method of calculating interest since the act and regulation prohibit such a practice.) The Board also believes the Congress intended for the Board to make determinations of preemption for all aspects of the act, not just disclosures. To read the Board's ability to make preemption determinations more narrowly could provide uncertainty as to the status of state laws, and create potential civil liability and compliance concerns that the Congress sought to avoid. The Board's Regulation Z (Truth in Lending) takes this broader approach of dealing with both disclosures and substantive requirements. (See 12 CFR 226.28.)

The Board has therefore changed the wording of the final rule. The proposed rule provided that state "disclosure" law requirements are preempted if they are inconsistent with the requirements of the regulation. The word "disclosure" has been deleted from the regulation to make clear that the standard applies to all requirements of the act and regulation, including the requirement to pay interest on the full balance in the account.

Section 230.2—Definitions

Paragraph (a)—Account

Section 274(1) of the act defines an account as any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds. The Board is generally defining the term as any deposit account held by, or offered to, a consumer. The regulation covers interest-bearing as well as noninterest-bearing accounts.

Covered accounts. The Board solicited comment on whether uninsured accounts offered by depository institutions should be covered. Based on a review of the comments and on the statutory language, the Board has defined an "account" to include all deposit accounts offered to consumers by depository institutions, whether the account is insured or uninsured. For example, even though federal deposit insurance limits are exceeded, a time account in excess of $100,000 would be covered.

Deposit accounts denominated in a foreign currency are accounts under this regulation, if offered to or held by consumers. These accounts are typically offered as money market accounts or through certificates of deposit that may be designated as foreign currency accounts. Such accounts are eligible for deposit insurance, but are not insured for losses resulting from exchange rate fluctuations. The Board believes it is important that such accounts receive the same disclosure and other protections of the regulation as consumer accounts denominated in United States dollars. However, as discussed in the supplementary information to §§ 230.4(b) and 230.8(a), the Board has not adopted special disclosures for these types of accounts, as had been proposed.

Several commenters pointed out that the proposed definition of a consumer could be interpreted to include non-residents of the United States. The Board believes the act is intended to provide protections only to those

persons who are residents of the United States (including resident aliens). The Board also believes the regulation applies to accounts at or offered by depository institutions located in the United States. Thus, if a depository institution is located in the United States and an account is held by or offered to a U.S. resident, the regulation applies. The regulation does not apply to accounts opened by non-resident aliens or to accounts of residents of a state opened at institutions located outside the United States.

Accounts held by deposit brokers. The act specifies that, in addition to depository institutions, "deposit brokers" are subject to its advertising provisions. In the proposed regulation, the Board solicited comment on whether third parities (including deposit brokers) who place advertisements that refer to deposit accounts at depository institutions should be covered by the advertising rules of the regulation. Many commenters urged the Board to apply the advertising provisions to all parties who offer accounts at depository institutions or interests in such accounts. Otherwise, they noted, consumers being offered interests in accounts at depository institutions through deposit brokers would not have the benefit of uniform advertising disclosures. Further, they argued, the regulation would create an "unequal playing field" which would place depository institutions offering the same type of account as those being offered by deposit brokers at a competitive disadvantage.

Based on the comments received and upon further analysis, the final rule provides that the advertising provisions cover interests in accounts at depository institutions that are offered by deposit brokers to consumers (even if the account at the depository institution is held in the name of the deposit broker, its agent or custodian). The Board believes that by using the broad definition of "deposit broker" to cover advertisers of accounts that are not themselves depository institutions, the Congress intended for consumers to have uniform disclosures to comparison shop whether the advertised account is offered by institution directly or through an independent entity. (See section 29(g) of the Federal Deposit Insurance Act (FDIA), which defines deposit broker as any person in the business of placing or facilitating the placement of deposits in an institution.) Thus, for purposes of the advertising rules, the Board is defining the term "account" to include an account at a depository institution that is held by or on behalf of a deposit broker, if any interest in the account is held by or offered to a consumer. For example, if a deposit broker purchases for its customers a time account at an institution in its own name, or in the name of its agent or custodian, the interests held by consumers are accounts that are covered by the advertising provisions of the regulation. Where an account offered to consumers through a deposit broker is advertised, it is the sole responsibility of the broker (and not the depository institution where the underlying account is located) to comply with the advertising rules. While brokers must comply with § 230.8, they are not required to provide other disclosures or comply with the other portions of the act or regulation.

Existing accounts held by unincorporated nonbusiness associations. An addition has been made to the paragraph to deal with accounts existing on the mandatory compliance date of the regulation that are held by associations such as book clubs or softball leagues. The act and regulation cover accounts held by "consumers," which includes "unincorporated nonbusiness associations of natural persons." (See § 230.2(h).) Many commenters noted that operational difficulty of identifying those existing "consumer" account holders that are not individuals. For example, some larger institutions commented that the ownership status of literally millions of existing accounts held by organizations and associations might have to be manually reviewed to determine whether accounts are covered or exempt.

All existing consumer accounts are covered by the regulation. However, the Board recognizes that the regulation's rules may cover accounts using criteria that differ from distinctions currently made by institutions between accounts of individuals and accounts of organizations. The Board is authorized under section 269(a)(3) to create exceptions for classes of accounts to facilitate compliance with the act. To ease the significant burden of reevaluating the ownership status of existing nonindividual consumer accounts, the Board is exercising its exception authority under section 269(a)(3) to exclude a limited class of existing accounts from coverage. Thus, the final rule excepts from all aspects of coverage those existing accounts held by unincorporated nonbusiness associations of natural persons opened prior to the mandatory compliance date of the regulation. If the institution is notified by an unincorporated nonbusiness association that an existing account is held by such an entity, the exception will cease to apply and the account must thereafter be considered a consumer account which is covered by the regulation. Institutions that are so notified must begin complying with the regulation within a reasonable time. For example, if the institution is notified during a statement cycle or a compounding period that the account holder fits the "consumer" definition, commencing coverage at the beginning of the following statement cycle or compounding period would be acting within a reasonable time.

For purposes of determining coverage under this provision, institutions may initially assume that existing accounts covered are those identified for tax purposes by an individual's social security number. Of course, even accounts identified with a social security number are not covered if they are for a business purpose, for example, an account held by a sole proprietor.

Institutions must have procedures in place so that unincorporated nonbusiness associations that open new accounts on or after the mandatory compliance date (or existing customers that inform the institution of their "consumer" status) receive all applicable disclosures required to be provided (1) at account opening and upon request, (2) on periodic statements sent on the account, and (3) if terms are changed. They will also be covered by all other provisions of the regulation (such as the interest payment requirements).

Other investments. As stated in the proposal, the term "account" does not include every financial relationship a consumer might have with an institution. For example, the purchase of a government security or an annuity through a depository institution is not an "account" subject to the regulation. Also, a consumer's interest in the securities or obligations of a depository institution that are being held by the institution on the consumer's behalf, or offered by the institution to the consumer is not an "account." Similarly, the term "account" does not include other contractual relationships a consumer may have with a depository institution such as repurchase agreements, interest rate swaps and banker's acceptances.

As stated in the proposal, the Board believes the Congress did not intend to cover certain other investments that may be offered through (as opposed to offered by) depository institutions, such as mutual funds. Often these investments are offered by affiliates of the depository institution, such as by a

non-depository subsidiary of a bank holding company. These investments are not deposit accounts of the depository institution, and are thus not covered by the final regulation.

Many commenters urged the Board to expand the definition of "account" to cover accounts held by consumers with non-depository affiliates or other non-depository financial service providers. Since the scope of the act is clearly limited to accounts at depository institutions and, to a limited extent, those offered by deposit brokers, the Board believes that the Congress did not intend to cover accounts for mutual funds and other investments offered by such non-depositories.

Paragraph (b)—Advertisement

The regulation retains the proposed definition of an advertisement. Thus, an advertisement is any commercial message appearing in any medium (for example, newspaper, television, lobby boards and telephone response machines) if it directly or indirectly promotes the availability of an account. Similarly, a message promoting a savings account that is sent to consumers on their NOW account periodic statement is an advertisement. As discussed more fully in the supplementary information accompanying § 230.8(e), the regulation contains a limited exception from some of the advertising provisions for advertisements such as lobby boards, telephone response machines, broadcast and electronic media, and outdoor advertising.

The act covers advertisements "initiated by a depository institution or deposit broker." The Board has defined "advertisement" without regard to the party initiating it, but, by virtue of the definition of "account" in paragraph (a) of this section, both depository institutions and deposit brokers are subject to the advertising provisions of the final regulation.

Rate sheets. The Board requested comment on whether the savings "rate sheets" published in newspapers, periodicals, or trade journals should be considered as advertisements. These rate sheets typically list certain limited information about the deposit account rates of selected depository institutions. Often, these rate sheets are independent third-party compilations of information on the rates of many of an area's depository institutions, with no payment made by the institutions to the third party nor any duty by the third party to include information about a specific institution.

Many commenters argued that rate sheets should not be classified as advertisements under the regulation. They believed that most of the rate sheets being published provide consumers with valuable information on the current savings rate environment, and that the regulation would reduce the availability of such information if all of the advertising rules applied to rate sheets.

It is the Board's position that rate sheets published in newspapers, periodicals, or trade journals are not advertisements as long as the depository institution does not pay a fee to have the information included and does not have control over whether the information will be published. The Board believes these types of rate sheets are not "commercial" messages of the type contemplated by the term "advertisement."

Paragraph (c)—Annual Percentage Yield

The regulation incorporates a definition of the annual percentage yield that is substantially similar to the act's definition. The act defines annual percentage yield by referencing the total amount of interest that would be received on a $100 deposit. As proposed and adopted, the definition does not incorporate the reference to a $100 deposit, since the annual percentage yield calculation can be performed with any amount of principal, and the Board believes reference to $100 could be confusing. The language of the final rule varies slightly from the proposed text for clarity, but the meaning is unchanged.

Paragraph (d)—Average Daily Balance Method

The proposed regulation did not have a definition of the "average daily balance method." An explanation of the daily balance and average daily balance methods were contained in footnote 1 to § 230.7(a) in the proposed regulation, however, and the present definition is taken from that footnote.

Several commenters asked how the average daily balance should be calculated if a "negative collected balance" occurs. This takes place if a consumer "overdraws" an account and thus produces a negative balance. In such circumstances, institutions should treat the balance in the account for that day (or days) as $0 and not average a negative sum into the calculation. If a fee is assessed in such circumstances (and is not part of a credit transaction), it should be disclosed as a fee—in the initial disclosures—and should not be treated as "negative" interest.

Paragraph (f)—Bonus

The act does not use or define the term "bonus." However, the definition of a "bonus" has significance under the regulation because a bonus is excluded from interest, must be disclosed under § 230.4(b)(7), and because mention of a bonus in an advertisement "triggers" or requires other disclosures to be made.

The Board's proposal defined the term "bonus" very broadly. Under the proposal, it would have encompassed any cash, premium, gift, award, or other consideration regardless of the form the payment takes. Commenters were concerned that with such a broad definition, inexpensive "promotional" items such as pens or coffee mugs would be bonuses, and would trigger additional disclosures. Based on these comments and upon further analysis, the Board has modified the definition of a bonus. The final rule excludes premiums (or any other consideration) of *de minimis* amounts. The *de minimis* amount the Board has adopted is $10 or less given during any consecutive 12-month period. This is the same amount used under current Official Staff Interpretation § 217.302 of the Board's Regulation Q (see Docket R-0775 published elsewhere in this issue of the **Federal Register**, where the interpretation is redesignated as § 217.101) and under section 6049 of the Internal Revenue Code for excluding amounts from being considered as interest and for reporting interest for tax purposes, respectively.

While Regulation Q contains a two-tier *de minimis* rule ($10 for deposits under $5,000 and $20 for deposits of $5,000 or more), the Board feels that providing a flat $10 *de minimis* amount is the best approach. Adding a tiered bonus rule would add complexity that is unnecessary to address the commenters' concerns.

The $10 *de minimis* exception is the same amount used by the Internal Revenue Service (IRS). The Board believes it is appropriate to mirror IRS rules for determining the value of any bonus. As a result, once the duty is triggered under IRS provisions for a depository institution and a consumer to report a bonus as interest for tax purposes, the bonus will be covered by the account disclosure and advertising rules (See paragraph (n) of this section for further discussion of the valuation of bonuses for tax purposes.)

Based on comments received, the regulation has been revised to clarify that a bonus does not include the payment of interest on an account. Also, some commenters suggested that the waiver or reduction of a fee or the absorption of expenses by a depository institution should not be considered a bonus. The Board agrees with this

position. Thus, under the final rule, an offer of certain "fringe benefits" by an institution to a consumer is not considered a bonus.

Finally, the supplementary information to the proposed rule stated that an item could be a bonus if given or offered to a third party, rather than to the consumer. Commenters suggested that the definition include only items given or offered to the consumer holding the account. They suggested compliance would be eased by such a rule and that the disclosures applicable to bonuses are most important where the consumer, and not some third party, is the recipient of the financial benefit from the payment of a bonus. The Board agrees that a concise rule regarding the disclosure of information concerning bonuses is desired. It has thus modified its position. Under the final regulation, an item of any value given or offered directly to a third party by a depository institution in exchange for a consumer opening or renewing an account with the institution is not a bonus.

Paragraph (g)—Business Day

The regulation tracks the definition of business day used in Regulation CC (Expedited Funds Availability). (See 12 CFR 229.2(g).) This definition differs from that in the proposed rule, which referred to days when an institution "carries on substantially all business functions." The change is in response to commenters' concerns that the proposal could present difficulty in determining whether an institution is open "for substantially all business functions," since certain banking services might be performed on weekends while others might not. Additionally, the change responds to commenters' requests that uniformity be provided between the Board's Regulation CC and Regulation DD. Thus, the final rule defines business day as any calendar day other than a Saturday, a Sunday, or any of the legal public holidays specified in 5 U.S.C. 6103(a). If New Year's Day, Independence Day, Veterans Day or Christmas Day falls on a Sunday, the next Monday is not a business day. While Regulation CC contains the previous sentence in the regulation itself, the Board believes it is unnecessary for purposes of this regulation. This rule follows the general Federal Reserve check collection and payment schedule in Regulation CC, and provides uniformity for institutions regarding when interest must begin to accrue on deposits. (See § 230.7(c).)

Business days are used for timing rules regarding the delivery of account disclosures to consumers who are not present at the institution when an account is opened and when a request is made for account disclosures. In all other circumstances, timing rules use calendar days.

Paragraph (h)—Consumer

The act does not define the term "consumer," although it is clear from the act and legislative history that the protections were intended to apply only to consumer purpose—and not business purpose—accounts.

The final regulation, as proposed, defines the term "consumer" by using the term "natural person" rather than "individual," and by adding the phrase "primarily for personal, family, or household purposes" to the definition. A similar definition has worked well in Regulation Z (Truth in Lending) in determining whether credit is for a consumer purpose, and the Board believes it will be equally helpful in determining coverage for deposit products. Although the proposal also included the phrase "or other nonbusiness purpose," the Board has deleted the phrase as unnecessary.

Sole proprietorships. The act does not expressly exclude from coverage accounts held by, or offered to, individuals operating businesses in the form of a sole proprietorship. The proposed regulation excluded such accounts. Commenters agreed with the Board's proposed position not to cover such accounts, and this position has been adopted in the final rule. Thus, because sole proprietorship accounts are for a business purpose, they are not subject to the act or regulation.

Unincorporated associations. An account held by or offered to an unincorporated association of natural persons (such as a softball team or a book club) is a consumer account covered by the regulation if that account is primarily for nonbusiness purposes. An account held by an incorporated, not-for-profit organization is not covered by the act, since the act limits its protection to unincorporated associations.

Commenters expressed concern regarding an institution's ability to determine the "consumer" status of existing accounts held by organizations. The supplementary information to paragraph (a) of this section provides guidance to depository institutions for these accounts in existence prior to the mandatory compliance date of the regulation. Thereafter, depository institutions must determine whether associations opening new accounts are covered by the regulation. Institutions may rely on the assertions of the association's representatives in making those determinations.

Custodial accounts. The Board solicited comment on whether custodial accounts, in which a natural person is a beneficial owner but where the legal holder (the custodian) is not a consumer should be subject to the act and regulation. Commenters felt it would be extremely burdensome and difficult for institutions in many cases to determine the identity of the person for whom an account is held. Commenters also questioned the value of requiring disclosures to be given to the custodian, since beneficiaries often cannot control the investment decisions of the custodian, and cannot comparison shop for accounts, one of the main purposes of the act. Moreover, they argued, custodians for such accounts—often large institutional investors—are in the business of acting as professional custodians, and are not the type of account holder the Congress intended to protect. The Board agrees that it would be burdensome to depository institutions to treat such custodial accounts as accounts held by consumers, and that disclosures generally could not be used by individuals in the way the Congress intended. Thus, the final definition of "consumer" excludes natural persons who, in their professional capacity, hold an account for another.

Several commenters asked whether Individual Retirement Accounts (IRAs) at depository institutions are covered by the regulation. The Board believes such accounts are covered to the extent funds are invested in an "account," as defined by the regulation. While IRAs technically are custodial accounts, they differ from typical custodial accounts. Unlike other custodial accounts, the consumer (beneficiary) usually controls the investment decisions for an IRA. Furthermore, the depository institution itself is the "custodian" rather than a third party acting on behalf of the consumer. The Board believes consumers would benefit and be better able to comparison shop if disclosures were received for such accounts. Of course, the regulation does not apply to all products in which a consumer may invest IRA funds. For example, if a consumer invests funds in a product such as government securities, the regulation would not apply.

Some commenters expressed concern about whether the proposed regulation would cover accounts such as landlord-tenant security accounts and attorney-client trust accounts where both the legal holder and the beneficial owner of an account may be natural persons. These accounts are established by the landlord or the attorney for a business

purpose, though the funds may represent a personal or household purpose for the tenant or the attorney's client. Such accounts are not primarily for personal, family, or household purposes, and thus are not consumer accounts covered by the regulation. Likewise, accounts held by a natural person for the benefit of a non-natural person or persons (for example, a charity) also would not be a covered consumer account if the holder is acting in a professional capacity.

However, where a natural person holds an account in a non-professional capacity for the benefit of another and the account is not for business purposes, the act and regulation apply. Thus, an account opened by a parent for a child under the Uniform Gifts to Minors Act would be covered by the regulation.

Commenters also requested guidance on the coverage of escrow accounts. To the extent that a general "escrow" or dispute-resolution account is opened by a consumer primarily for personal, family or household purposes, it would be covered by the final regulation. For example, an account established by an individual for lease payments pending resolution of a dispute with a landlord would be a consumer account for the purposes of the regulation. However, a typical escrow account established for the payment of funds (such as for taxes and property insurance) in connection with a real estate transaction is not a consumer account. Such escrow accounts are normally opened primarily as a mechanism for the safe-keeping of funds pending a future event, and not as an independent investment decision allowing the consumer to shop for an account. For example, mortgagors typically do not determine the particular depository institution where the mortgage escrow account is established.

Some commenters requested that the Board modify its proposal to exclude accounts—even if held by natural persons for nonbusiness purposes—where such accounts are typically designed for, but not limited to, businesses or sophisticated individual investors. Similarly, others requested a dollar threshold, for example, $100,000, above which an account would be deemed not to be a consumer account. While the Board believes there may be some consumers holding such accounts who arguably do not need the protections of the act and regulation, others would certainly find these protections beneficial. In addition, neither the act nor the legislative history suggests any Congressional intent to exempt any consumers from the scope of the act's provisions based on the amount deposited. Therefore, the Board does not believe it is appropriate to modify the regulation to provide exceptions from coverage based on the size of the account or the target group intended for a particular account. A depository institution must determine in each case whether a consumer will hold an account primarily for personal, family or household purposes (or if an association meets the "consumer" definition).

Paragraph (i)—Daily Balance Method

As with the term "average daily balance method," there was no definition for the term "daily balance" in the proposed regulation. The Board has moved the material from footnote 1 to § 230.7(a) in the proposal to the definition of this term.

Paragraph (j)—Depository Institution and Institution

Section 274(6) of the act defines a "depository institution" as that term is defined in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act. The Federal Reserve Act includes in its definition any insured bank, savings bank, mutual savings bank, or savings association, and any institution eligible to make application to become an "insured" institution under the FDIA. The FDIA definition of an insured institution includes any state of federally chartered bank, any insured branch of a foreign bank, as well as industrial banks and other state incorporated banking institutions that are engaged in the business of receiving deposits (other than trust funds). (See section 3 of the FDIA.) Based on these definitions, the act's coverage is very broad, and covers both state and federally chartered institutions if the institution is insured, or is uninsured but is eligible to make application to become insured. Branches of foreign banks that meet this definition are covered.

The final regulation adopts the definition of depository institution as it was proposed. Many commenters believed credit unions should be subject to the Board's regulation. As discussed in the proposal and in § 230.1(c) of the final rule, the act specifically provides that the Board's regulation shall not apply to credit unions; instead, the NCUA is required to issue substantially similar Truth in Savings regulations for credit unions within 90 days of the effective date of this regulation.

Paragraph (k)—Deposit Broker

The act defines "deposit broker" by reference to section 29(f)(1) of the FDIA. The act also includes any person who solicits any amount from any other person for deposit in an insured depository institution in its definition.

The proposal did not specifically define "deposit broker," although § 230.1(c) referred to the FDIA definition. However, the Board solicited comment on whether third parties (including deposit brokers) who place advertisements that refer to deposit accounts at depository institutions should be covered by the advertising rules of the regulation. Given the Board's position that deposit brokers are covered by the advertising rules, the term has been defined in the final regulation. To facilitate compliance, the Board is defining deposit broker by reference to the FDIA. The Board believes that the FDIA, which covers any person in the business of placing or facilitating the placement of deposits in an institution, essentially captures Congressional intent. If the Act's exact language were used, persons such as employees of depository institutions or pension plan administrators—and others expressly excluded from the FDIA definition—could arguably become subject to rules governing deposit brokers, creating confusing and potentially conflicting coverage standards.

Paragraph (l)—Fixed-Rate Account

The Board has added a definition for fixed-rate accounts since the final regulation uses the term in § 230.4(b)(1)(i). The term includes those accounts in which the institution, by contract, gives at least 30 calendar days advance written notice of decreases in the interest rate. Thus, institutions offering fixed-rate accounts may change rates from time to time, but only if they provide advance notice of rate decreases. (An increase in the rate would not require any notice.)

Paragraph (m)—Grace Period

The proposal did not define "grace period," though comment was requested on whether a grace period should be disclosed. The final regulation incorporates a definition because, if a grace period is provided for an automatically renewable time account, it must be disclosed under § 230.4(b)(6)(iv). In addition, a grace period may be important for purposes of § 230.5(b), dealing with the timing of disclosures for rollover time accounts. A grace period is defined as a period after maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty. An institution is free to provide a grace period or not. (See footnote 1 to the Board's Regulation D.

12 CFR 204.2(c)(1) and footnote 1 to Regulation Q, 12 CFR 217.3, however, dealing with the payment of interest during any grace period, and similar rules of other federal financial regulatory agencies.)

Paragraph (n)—Interest

This definition, which is adopted substantially unchanged from the proposal, states that bonuses and similar offers do not constitute interest for purposes of the regulation. This differs from the rule in Regulation Q, 12 CFR 217.2(d), which does include bonuses as part of its definition of interest, due to the prohibition on paying interest on demand accounts, and the fact that in that context a bonus is the equivalent of interest. (See also the rules of other federal financial regulatory agencies.) This rule also differs from the position of the IRS. In 26 CFR 1.6049–5(a)(2), the IRS states that the fair market value of property received as interest or in lieu of a cash payment of interest is "interest" for reporting purposes.

Though commenters were divided in their views on the issue, many agreed with the Board's proposal to not include the payment of a bonus as interest. As discussed in the proposal, the Board believes that the benefit of including bonuses as interest is outweighed by the burden such a requirement would impose upon depository institutions and the confusion that would be caused to consumers.

The definition has been revised by an additional reference to the fact that interest is calculated by applying a periodic rate to the balance in the account. The final regulation makes clear that an institution's absorption of expenses or its forbearance from charging a fee in connection with a service is not considered to be payment of interest. A depository institution's practice of charging higher fees to non-account holders than to account holders does not make the differential "interest."

Paragraph (o)—Interest Rate

Section 274(3) of the act defines the "annual rate of simple interest" as the annualized rate of interest paid with respect to each compounding period, expressed as a percentage. In the proposal, the Board simplified the phrase to "simple interest rate" and reworded the definition to clarify that the "interest rate" is the rate of interest paid without regard to compounding, shown as an annual figure and expressed as a percentage.

The Board has revised the proposed definition by further abbreviating the term to "interest rate." Several commenters remarked that the word "simple" in conjunction with "interest rate" has no standard meaning in the industry and does not assist consumers in understanding the figure disclosed. The Board agrees with this position, and has deleted the word "simple" from the term.

Section 274(3) of the act provides that the interest rate may be referred to as the "annual percentage rate." The Board proposed to use its exception authority to limit use of the term "annual percentage rate" so that it may be used only in conjunction with the term "interest rate," and only for purposes of account disclosures (that is, not in advertisements). The Board pointed out the importance of standardized terminology in advertising in order to assist consumers in comparing accounts, and requested comment on this issue.

With very few exceptions, commenters opposed allowing any use of "annual percentage rate" under the regulation because the term is associated with credit, not deposits. Commenters recognized that the term "annual percentage rate," as required to be disclosed under Regulation Z, is commonly understood by consumers to encompass the total cost of credit—including both interest and other finance charges. Most commenters believed strongly that confusion could arise if that term were used to designate an interest rate for the consumer's deposit account at a depository institution, while the same terminology would be used to designate a rate that includes both interest and, for example, "points" charged for a mortgage loan from the same institution. In addition, most commenters believed that it would be confusing for prospective account holders to see the same figure labeled as the "interest rate" in some advertisements and disclosures and as the "annual percentage rate" in others.

The Board agrees with these commenters. For these reasons the Board is using its exception authority under section 269(a)(3) of the act, and is adopting the rule regarding use of the term "annual percentage rate" as it was proposed. Some commenters urged the Board to prohibit the use of the term "annual percentage rate" in disclosures as well as in advertisements. In the light of the statutory provision, however, the Board is taking a more limited approach. The Board believes that the potential for confusion is greatest in advertisements and so is prohibiting it only in advertisements. Thus, institutions are permitted (but not required) to use the term "annual percentage rate" only in the account disclosures and only in addition to the term "interest rate."

Paragraph (p)—Passbook Savings Account

The final rule adds a definition of passbook savings account because the Board excludes from the definition of periodic statement any statements for passbook savings accounts. (See paragraph (q) of this section.) The regulation defines passbook savings account as a savings account in which the consumer retains a book or other document in which the institution records transactions on the account.

Paragraph (q)—Periodic Statement

Neither the act nor the regulation requires institutions to provide periodic statements (though a large number of commenters misunderstood this point). Disclosures are required to be included if the institution sends such statements. Further, the act does not define "periodic statement," although the term, or a similar term "account statement," is used in two provisions (sections 266 and 268). Section 266(e) of the act (which requires a notice to be given to existing account holders) refers to account statements provided on a quarterly basis. The Board looked to this provision and to requirements in other regulations in proposing to define a periodic statement as one sent on a quarterly or more frequent basis. The majority of commenters agreed with the Board's proposed definition. Thus, the general definition of a periodic statement in the final rule is one that sets forth account information and is provided to a consumer on a regular basis four or more times a year. An example of a periodic statement is a monthly statement for a NOW account, listing transactions and balance information.

In response to comments and upon further analysis, the Board has exercised its exception authority under section 269(a)(3) of the act to exclude specific types of accounts from the periodic statement requirements of the final rule. The regulation excludes from the definition any statement about either time accounts or passbook savings accounts.

Under the proposal, if an institution included information about any account on a statement, all of the disclosures of § 230.6 would be required for each type of account listed on the statement. A number of commenters noted that institutions often provide "combined statements." These combined statements contain detailed information about one or two accounts (typically, a

checking account or a checking and savings account), but also contain a limited mention of other accounts (typically, just the balance or interest earned on a certificate of deposit) held by the consumer at the same institution. Institutions that currently provide such status information for the accounts urged the Board to exempt those accounts from the periodic statement requirements.

Commenters noted that institutions may stop providing information about time accounts on combined statements without such an exception, due to the burden of calculating rates on multiple accounts and concerns about potential civil liability. In addition, commenters noted that space and printing limitations might prompt institutions to stop sending periodic statements that are presently provided voluntarily. Commenters also noted that, for time accounts, the required disclosures may be of limited value to the consumer. For example, disclosure of the number of days in the statement cycle is not particularly useful since these accounts have a set maturity. In addition, since most time accounts have no transactions and are fixed rate, the annual percentage yield earned would likely remain the same throughout the term of the account. The Board believes that exempting statements on time accounts from the definition of periodic statement, and thus from the disclosure requirements in § 230.6, is appropriate as it will encourage institutions to continue providing account information on the regular statements provided to consumers, without a significant sacrifice of useful information to consumers. Thus, regardless of their frequency, statements providing information to consumers about time accounts, whether sent separately or in combination with statements for other accounts, are not covered by this paragraph.

The Board is also using its exception authority to exclude information provided about passbook savings accounts from the definition of a periodic statement. Consumers who maintain such accounts generally understand that account information will only be made available when the passbook is presented for updating a transaction. Consumers do not expect periodic statements for their passbook savings accounts. A consumer may receive a periodic statement for other accounts, on which the institution elects to provide brief status information about the passbook account. As with the exception from the disclosure requirements for statements on time accounts, the Board believes it is important that institutions not be discouraged from providing this type of useful information to consumers.

The Board believes that certain other types of communication are not "periodic statements." For example, additional statements provided solely upon request and information provided by computer through home banking services are not periodic statements. In addition, general service information sent to customers which does not discuss specific transaction activity or other aspects of a particular consumer's account (for example, a quarterly newsletter or other correspondence that describes available services and products) is not a periodic statement.

If an institution provides a periodic statement to meet other legal requirements (for example, if an account involves electronic fund transfers and is covered by Regulation E (12 CFR part 205)), such a statement would be a periodic statement for purposes of this regulation. Also, if an institution provides a combined statement containing both credit and deposit account activity, such a statement would be covered by the periodic statement rules. In both cases, of course, if the statement is for a time account or passbook savings account it is exempt from this regulation.

Paragraph (s)—Stepped-Rate Account

The act defines "multiple rate" accounts, and authorizes the Board to adjust its general annual percentage yield disclosure rules to ensure that meaningful disclosures are provided for such accounts. The Board has separately defined "stepped-rate" and "tiered-rate" accounts, both of which are "multiplied rate" accounts under the act.

The final regulation defines stepped-rate accounts as that term appeared in the proposed rule: those in which two or more interest rates that are known at the time the account is opened will take effect in succeeding periods. An example of a stepped-rate account is a one-year certificate of deposit in which a 5.00% interest rate is paid for the first six months, and 5.50% for the second six months.

Paragraph (t)—Tiered-Rate Account

The Board's proposal defined tiered-rate accounts as those in which two or more interest rates paid on the account "are determined by reference to a specified balance level." One commenter suggested that this definition be revised to read "an account that has two or more interest rates that are applicable to specified balance levels." The Board agrees that this suggestion more accurately describes tiered-rate accounts, and has adopted a revised definition based on this suggestion.

An example of a tiered-rate account is one in which an institution pays, for example, a 5.00% interest rate on balances below $1,000, and 5.50% on balances $1,000 and above. There are two types of tiered accounts which are described more completely in appendix A, part I, paragraph D.

If interest is not paid on amounts below a specified balance level, the account has a minimum balance requirement (required to be disclosed under § 230.4(b)(3)(i)), but the account does not thereby constitute a tiered-rate account. For example, an account that does not pay any interest on account balances of less than $1,000, but pays a 5.50% interest rate on account balances of $1,000 or more is not a tiered-rate account, but rather is a single rate account with a minimum balance of $1,000 required to earn the specified annual percentage yield.

Paragraph (u)—Time Account

The proposed regulation did not include a definition of a "time account." However, because the final regulation provides special rules for certain time accounts (such as automatically renewable and non-automatically renewable certificates of deposit) and since time accounts are exempt from the periodic statement rules, the Board has adopted a definition. The term is based on the term "time deposit" under the Board's Regulation D (12 CFR 204.2(c)(1)). However, the regulation uses the phrase "time account" rather than "time deposit" to avoid confusion since time deposit, as used in Regulation D, has a broader meaning than that in this regulation. For example, a "time deposit" in Regulation D includes savings deposits, which do not fit the definition of "time account" in this regulation.

A time account is defined as an account with a definite maturity of at least seven days where a consumer generally does not have a right to make full or partial withdrawals from the account for six days after the account is opened, unless the deposit is subject to an early withdrawal penalty of at least seven days' interest on amounts withdrawn.

The most common time accounts are certificates of deposit; but certificate accounts and notice accounts issued by savings and loan associations are also included. Time accounts also may include some types of "club" accounts (such as "holiday club" and "vacation club" accounts)—where consumers

agree by written contract not to withdraw funds until a certain number of periodic deposits are made—even though deposits may be made within six days before the end of the period.

The Board recognizes that Regulation D permits withdrawals without penalty during the first six days after a time deposit is opened under limited circumstances, such as upon the death of any owner of the deposited funds or within a "grace period" for automatically renewable certificates of deposit. Accounts that permit withdrawals of funds in accordance with those provisions of Regulation D remain time accounts for purposes of this regulation.

Paragraph (v)—Variable-Rate Account

The act does not define variable-rate accounts, but section 265 of the act authorizes the Board to adjust its annual percentage yield disclosure rules for such accounts. The legislative history accompanying the act also indicates that modifications to the act's advance notice requirement for changes in terms were contemplated for variable-rate accounts. (See discussion of § 230.5(a)(2)(i) below.) The Board requested comment on how variable-rate accounts should best be defined to further the purposes of the act. Two alternative definitions were proposed: A narrow one that tied rate changes to an index, and a broad one that encompassed any account agreement allowing rate changes where the institution did not commit itself to giving at least 30 days advance notice of the change.

The classification of an account as a "variable-rate account" affects institutions in three ways:

(1) Additional account disclosures are required in § 230.4(b)(1)(ii);

(2) Rate decreases are exempted from the change in terms requirements in § 230.5(a)(2)(i); and

(3) A notice is required in advertisements under § 230.8(c)(1).

Many commenters expressed their views on the proposal. A few commenters supported the narrow definition linking rate changes on an account to changes in an index. They preferred a standard that paralleled Regulation Z's definition of variable rates for open-end credit to an expansive definition which they believed to be too broad.

The overwhelming majority of commenters, however, preferred a broader definition, based on both competitive and safety and soundness concerns. Some stated that without a broad definition consumers would be hurt since institutions would keep rates lower than they otherwise might offer, either to avoid the cost of sending advance notices if the rate had to be lowered or to guard against having to send notices because of unanticipated fluctuations in the financial marketplace. Many were concerned that advance notice requirements would restrict their ability to deal with competitive factors and other investment options available to consumers such as money market mutual funds, which are not covered by the act and regulation. Some were concerned that tying changes to an index—internal or external—would inhibit an institution's ability to respond appropriately to volatility in obtaining funds and to manage the liability side of the institution's balance sheet. Others were concerned about the cost of sending notices on accounts that may change rates as frequently as daily or weekly and the annoyance to consumers of receiving a constant deluge of notices about changes they already know can occur on their accounts.

In the proposal, the Board discussed its concern that if institutions reserve the right to change rates on accounts but seldom do, consumers would view these accounts essentially as fixed-rate accounts. Many commenters pointed out that account disclosures for variable-rate features required by § 230.4(b)(1)(ii) will alert consumers to the fact that the rates may change and the circumstances for such changes. They also pointed out that consumers can always contact the institution to get current rate information. (See §§ 230.3(e) and 230.4(a)(2) regarding responses to oral inquiries and providing disclosure of account terms upon request.)

The Board believes that a narrow definition of "variable-rate account" would require a substantial change in how depository institutions price their accounts, a change that was unintended by the disclosure provisions of the act. Also, consumers would be harmed if institutions offered artificially low rates to avoid repeated and expensive mailings. Thus, the regulation broadly defines a variable-rate account as one in which the interest rate may change after the account is opened, unless the institution contracts to give at least 30 calendar days advance written notice of rate decreases. An account meets this definition whether the change is determined by reference to an index, by use of a formula, or merely at the discretion of the institution. A certificate of deposit that permits one or more rate adjustments at the consumer's option is a variable-rate time account.

For institutions that prefer to offer—and consumers who prefer to hold—fixed-rate accounts, the regulation excludes from the definition of variable-rate those accounts where the institution agrees to provide at least a 30-day advance written notice of rate decreases. (See paragraph (l) of this section.)

Section 230.3—General Disclosure Requirements

Paragraph (a)—Form

Section 264(e) of the act requires disclosures to be written in "clear and plain language." The Board proposed that information be presented "clearly and conspicuously," a standard used in other regulations adopted by the Board, such as Regulation Z. This standard was supported by commenters, and is used in the final rule for all disclosures provided to consumers, including account opening disclosures, change in terms notices and information given on periodic statements. (The same standard applies to advertisements by virtue of § 230.8.)

Design requirements. The proposal provided depository institutions with flexibility in designing the account disclosures, as long as the information is presented in a format that allows consumers to readily understand the terms of their own accounts. The final regulation provides even more flexibility regarding the order of disclosures, the use of multiple documents for accounts, the use of documents that describe more than one account, and the combination of disclosures with contract terms and with disclosures required by other regulations (such as Regulation E and Regulation CC).

The regulation does not require the disclosures to be provided in any particular order or segregated from other disclosures or account terms. Disclosures may be made on more than one page and may appear on front and reverse sides. For example, periodic statements may consist of several pages, depending on the consumer's account activity. Institutions may also use inserts to a document or fill in blanks to show current rates or fees in account opening disclosures. Whereas the proposal suggested that disclosures had to be part of "one document," the final regulation permits use of more than one document. However, if more than one document is used for a single account (or if more than one account is described in an institution's brochure), consumers must be able to understand from the several documents (or multiple account disclosures) which terms apply to their particular account. See, for

example, the approach taken in Sample Form B–4 in appendix B.

Depository institutions could comply with the regulation by providing consumers with disclosures contained in one or more of the following documents: a signature card, a rate sheet, a fee schedule and a brochure that described other terms of the account. However, if the disclosures consist of more than one document, all relevant documents must be provided at the same time, and it must be clear to which account each document relates. For example, the regulation would not permit a customer service representative to hand a consumer a brochure that describes some terms of the account when an account is opened and mail a rate sheet and fee schedule at a later time. Disclosures must be in a form the consumer may retain. Thus, for example, disclosures could not be made on a signature card if the consumer is not given a copy to keep.

Institutions may choose to prepare a single document or brochure that contains disclosures for all accounts offered, or prepare different documents for different types of accounts. For example, an institution may provide one brochure for all of its transaction accounts, such as NOW and demand deposit accounts. An institution may provide disclosures for each type of account, such as a document that describes all time accounts offered. If the institution chooses to provide one document for several accounts, the consumer must be able to understand clearly which disclosures apply to the consumer's account. Thus, if an institution offers two NOW accounts ("A" and "B") with some fees applicable to both accounts, certain fees and rates unique to the "A" account, and other fees and rates unique to the "B" account, the disclosures must make clear (by the use of headings or some other means) which fees and rates apply to which account. Finally, the regulation permits institutions to provide individual disclosures describing a single account product; for example, an institution offering three different NOW accounts may provide a separate document for each account.

Disclosures need be made only as applicable. For example, disclosures for noninterest-bearing accounts need not include disclosure of an annual percentage yield, interest rate, or any other disclosures required under the regulation that pertain to interest calculations.

Format requirements. Adopted as proposed, the regulation does not require any particular type size or typeface, nor does it require any term to be stated more conspicuously than any other term in the account disclosures. Sections 230.4(b) and 230.8(b) of the regulation require the "annual percentage yield" (and, in some cases, the "interest rate") to be so labeled in account disclosures and advertisements, and § 230.6(a) requires the "annual percentage yield earned" to be so labeled on periodic statements. Apart from this, there is no required terminology. Institutions must be consistent, however, in the use of a term whenever the term is required to be disclosed. For example, if an institution identifies a monthly fee imposed regardless of a consumer's balance or activity in the account disclosures as a "service" fee, a "maintenance" fee, or a "monthly" fee, it must use the same term in its periodic statements and change in term notices.

Several commenters requested guidance on the use of abbreviations. Use of the abbreviation "APY" for the annual percentage yield is discussed in § 230.8(b) (dealing with advertisements).

Paragraph (b)—General

The proposal stated that disclosures should reflect the legal obligation between the parties. This standard is used in Regulation Z and was proposed to provide guidance about the basis for disclosures. Some commenters expressed concerns about whether inclusion of this provision in the regulation implied the existence of some new requirement for institutions to enter into account contracts with their consumers. This requirement does not impose any contract terms or supplant state or other laws that define how the legal obligation between a consumer and a depository institution is determined (for example, whether a written contract is required or whether disclosures may act as the basis for the obligation). The regulation requires the disclosures to reflect the terms of the legal obligation that exist once the consumer opens an account.

Institutions offering automatically renewable time accounts must base their disclosures on the terms in effect for the initial term of the account, and not on terms that may apply if the account is renewed. Thus, if an institution offers a six-month certificate of deposit at an initial annual percentage yield of 4.00% with a guaranteed renewal at an annual percentage yield of 5.00%, the institution would not disclose the account as a one-year stepped-rate account. Similarly, the fact that the rate may change on a fixed-rate time account at renewal does not make it a variable-rate account.

The Board sought comment on the use of estimates in making disclosures. Some commenters requested that estimates be permitted for charges imposed by third parties such as check vendors as an alternative to the use of a range of check printing charges. But many opposed the use of estimates under any circumstance; they viewed the imprecision of estimates as being more confusing than helpful to consumers. The Board believes that, on balance, a rule on estimates is not needed because virtually all information required to be disclosed is within the total control of the institution (with the special rules provided in §§ 230.4(b)(4) and 230.5(a)(2)(ii), to deal with the issue of check printing charges). Furthermore, the introduction of estimates complicates the disclosure scheme without providing attendant benefits to consumers. Thus, the regulation does not permit the use of estimates in making disclosures.

The act does not contain any special requirements regarding whether disclosures may be made in a foreign language rather than in English. The Board sought comment on incorporating a rule similar to that in Regulation Z, which allows creditors in Puerto Rico the option of providing credit disclosures in Spanish, as long as those that do so furnish disclosures in English upon request. Most commenters endorsed the alternative of providing disclosures in languages other than English. Some institutions currently reach out to the communities they serve by offering disclosures in languages other than English, where appropriate, and asked for express authority to do so. A few commenters were concerned that the proposed regulation could be interpreted to impose a duty upon institutions to provide disclosures in languages other than English. Based on comments received and upon further analysis, the final regulation permits (but does not require) institutions to provide disclosures in languages other than English, as long as disclosures in English are available upon request. This rules applies to institutions in every state, not just in Puerto Rico. The Board believes that the rule will promote delivery of more useful information to consumers.

Paragraph (c)—Relation to Regulation E

The final regulation expressly allows institutions to fulfill their requirements under this regulation with disclosures that also satisfy the requirements of Regulation E. Thus, if an institution is required to provide information pursuant to Regulation E, such as a fee

related to an electronic fund transfer, disclosures given pursuant to that regulation will be deemed to comply with this regulation as long as they are given at the same time as other Regulation DD disclosures. Similarly, if an institution changes a term that triggers a change in term notice under Regulation E (as well as under this regulation), the institution may use the timing rules set forth in Regulation E for sending the notice to affected consumers. (See the discussion in §§ 230.4(b)(4) and 230.4(b)(5) regarding disclosures of fees and transaction limitations.)

Paragraph (d)—Multiple Consumers

The regulation retains without change the proposed rule that in the case of an account held or to be held by more than one consumer, institutions may provide the account disclosures to any consumer who holds or will hold the account. Similarly, if the account is held by a group or organization, depository institutions may provide the disclosures to any one individual who represents or acts on behalf of the group. Some commenters requested that the Board consider identifying a "primary account owner," such as the consumer whose tax identification number is assigned to the account. The Board believes that requiring institutions to provide disclosures to a "primary account owner" adds an unnecessary compliance burden; thus, it has not added such a requirement to the regulation. Some commenters were concerned that accounts "held" by multiple consumers implied that only account holders with ownership interests in the account could receive disclosures. The Board believes that where there are multiple consumer account holders, delivery to any account holder or an agent authorized by the account holder satisfies this paragraph.

Paragraph (e)—Oral Response to Inquiries

Although not required by the act, the Board proposed to standardize rate information that is given by institutions in response to an oral inquiry regarding rates. This requirement does not impose a duty on institutions to provide responses to oral inquiries, nor would a response trigger the advertising disclosures of the regulation. The proposal would have required institutions to use the terms "annual percentage yield" and "simple interest rate." The final regulation merely requires that institutions that provide oral responses for requests for rate information state the annual percentage yield figure. The interest rate figure may also be provided. (This would also permit a statement of the corresponding periodic rate.)

The regulation differs from the proposal in two respects. First, in response to comments, the regulation has been clarified to state the interest rate may be quoted in addition to (not in lieu of) the annual percentage yield. Second, the regulation has deleted the requirement that the annual percentage yield or interest rate be stated using those terms. While the Board expects that institutions will use those terms to describe the figures quoted to consumers, the regulation does not require this terminology. The requirement was deleted due to the Board's concern about the potential for civil liability if an employee of an institution inadvertently failed to use the specified term.

Paragraph (f)—Rounding and Accuracy Rules for Rates and Yields

In the proposal, rules relating to the calculation and accuracy of the annual percentage yield were contained in appendix A. In response to suggestions made by commenters, a new paragraph that contains rules regarding rounding and accuracy of the annual percentage yield, the annual percentage yield earned, and interest rate has been added to this section of the regulation. Regulation Z has a similar provision, and the Board believes a single section setting forth the accuracy standards for rates and yields will ease compliance.

Paragraph (f)(1)—Rounding

As proposed, the final rule provides that annual percentage yields are to be shown to two decimal places and rounded to the nearest one-hundredth of one percent (.01%). If an institution calculated an annual percentage yield to be 5.644%, it would be rounded down and shown as 5.64%; 5.645% would be rounded up and disclosed as 5.65%. The Board believes that expressing all yields to two decimal places will assist consumers in comparing the rates of competing depository institutions. The same rule applies to the annual percentage yield and the annual percentage yield earned.

In response to comments received, the final rule adds rounding rules for the interest rate. For advertisements, the interest rate must also be rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places. For example, if an institution's interest rate is 5.344%, that figure would be rounded down and shown in an advertisement as 5.34%; 5.345% would be rounded up and disclosed as 5.35%. This parallels the rule adopted for the annual percentage yield. The Board believes that figures shown to two decimal places in advertisements will assist consumers in successfully comparing the rates of competing depository institutions. Without such a rule an institution with an interest rate of 5.45% could advertise and disclose a rate of 5.5%, the same rate advertised and disclosed by another institution with an interest rate of 5.50%. The Board believes this would hinder consumers' ability to compare accounts. The interest rate also must be shown to two decimal places in account disclosures. At the depository institution's option, however, the interest rate may be shown with greater specificity (more than two decimal places) in account disclosures, in order to allow the use of the exact contract rate.

Paragraph (f)(2)—Accuracy

As proposed, the final rule provides a tolerance of 1/20 of one percentage point (.05%) for the accuracy of the annual percentage yield. While some commenters believed that technology makes a tolerance unnecessary, many commenters supported a calculation tolerance and felt that 1/20 of one percentage point was appropriate. If the annual percentage yield disclosed is not more than one-twentieth of one percentage point (.05%) above or below the actual annual percentage yield as determined in accordance with appendix A, no violation of the act or regulation has occurred. The same rule applies to the annual percentage yield and the annual percentage yield earned. The tolerance is designed to take account of inadvertent errors. By adopting the tolerance, the Board does not intend to sanction intentional misstatements of the annual percentage yield. Institutions may not purposefully incorporate the tolerance as part of their calculations. Thus, the amount of the tolerance could not be routinely added in when calculating the annual percentage yield to be disclosed.

Although the regulation allows a tolerance in the accuracy for annual percentage yields, there is no corresponding tolerance for the accuracy of the interest rate. The interest rate offered on accounts is chosen by, and therefore known to, institutions and involves minimal risk of calculation error. Further, the Board believes the Congress intended consumers to receive a disclosure of the precise interest rate paid on the account. The Board believes adopting a tolerance for the interest rate therefore is not appropriate.

Section 230.4—Account Disclosure

The Board proposed and retains in the regulation its use of "account disclosures" (rather than the term "account schedule" used in the act) in connection with the information required to be provided to consumers. Similarly, the regulation does not impose an independent duty on institutions to "maintain" disclosures but merely to deliver them in the necessary circumstances. These positions were supported by the commenters.

Paragraph(a)—Delivery of Account Disclosures

The regulation is organized differently from the proposal. The proposal outlined subsequent disclosure duties for maturing time accounts in both §§ 230.4(a)(3) and 230.5(b). For ease of compliance, all requirements for providing information to consumers after an account is opened (other than ongoing disclosure duties for accounts that receive periodic statements) are now located in § 230.5. Thus, rules regarding subsequent notices for maturing time accounts are found in § 230.5(b), 230.5(c), and 230.5(d) of the regulation.

Paragraph (a)(1)—Account Opening

The proposal and the final regulation parallel the act, and require institutions to provide account disclosures to consumers before an account is opened or a service is provided, whichever is earlier.

Service fees. The Board is retaining the proposed provision requiring disclosures to be given before a fee (required to be disclosed under paragraph (b) of this section) for a service is imposed. The Board believes this disclosure covers the unusual circumstance where a fee is assessed for a service prior to the opening of an account. This provision, however, does not require institutions to give disclosures to existing account holders prior to imposing a service fee connected with the account, such as for stopping payment on a check.

Consumer absent when account is opened. Section 266(b) of the act allows the disclosures to be sent within 10 days of "the initial deposit" if the consumer is not physically present when the deposit is accepted and the disclosures have not been provided previously. The proposed regulation applied the 10-day rule to the provision of services as well as to opening accounts, and defined the period as 10 business days rather than calendar days. The final regulation reflects the same position. Thus, if an account is opened by mail, the account disclosures must be mailed or delivered within 10 business days of the time the account is opened. Institutions comply with the provision if the account disclosures are mailed or delivered to the consumer at the address shown on the records of the depository institution.

The Board solicited comment on whether business days or calendar days should be used in setting forth the timing rules for opening accounts and providing services, as well as for responding to requests for disclosures. The majority of commenters favored use of business days, and that is retained in the final rule for providing disclosures when an account is not opened in person. The Board believes that using 10 business days as the timing measure for the account opening rule is appropriate to allow institutions adequate time to provide disclosures (especially since the disclosures cannot be used for comparison shopping in any event since they come after the deposit decision has been made). However, the timing rules for other provisions (for example, the subsequent disclosures required in § 230.5) are measured by calendar days.

The act states that disclosures need not be provided to the absent consumer if the disclosures were previously provided. The Board requested comment on whether it would be desirable to specify a time limit, for example, 60 days, beyond which prior disclosures would be deemed not to be current—even if they have not changed. Commenters strongly opposed a rule with a specified time limit. Based on comments received, the Board is not adopting the reference to 60 days. However, the Board believes that the Congress intended to permit institutions to rely on this provision only if the disclosures previously provided remain the same (including the annual percentage yield and interest rate). As a practical matter, the Board believes this provision of the regulation is of limited benefit, as institutions that rely on it must know both that their customers previously received the disclosures and that the account terms remain the same.

New accounts. Section 230.4(a)(3)(i) (cited as § 230.4(a)(3)(A) in the April 13 **Federal Register** notice) of the proposal provided that renewals of all time accounts were new accounts. Commenters argued that an automatically renewed time account is *not* a new account, but acknowledged that a nonautomatically renewable time account that is "renewed" at the consumer's request *is* a new account. In light of these comments, the Board has modified the final regulation by deleting proposed § 230.4(a)(3)(i). Renewals of "rollover" time accounts are dealt with in §§ 230.5(b) and 230.5(c). A "renewal" of a time account that does not automatically renew is a new account requiring account disclosures delivered according to the usual rules for account opening.

Some commenters asked whether a new account would be considered to be opened when an institution acquires an existing account through merger with or acquisition of another institution. Acquiring accounts through acquisition or merger does not trigger the disclosure rules under this section. Of course, if terms required to be disclosed are changed, the acquiring institution must follow the rules in § 230.5(a) regarding advance notice.

Paragraph (a)(2)—Requests

Paragraph (a)(2)(i). The act requires that account disclosures be made available to any person upon request. The proposal required depository institutions to mail or deliver the disclosures no later than three business days following receipt of a consumer's oral or written request.

Several commenters requested clarification about customer actions that trigger the rule. A mere inquiry about rates for an account does not trigger an institution's duty to provide account disclosures. For example, common telephone inquiries about rates and yields on certificates of deposit or about fees and charges for an account do not trigger an institution's duty to send disclosures to the caller. However, the duty is triggered if, in the course of inquiring about an account, a consumer asks for written information to be provided. This section also governs requests for account disclosures by existing consumer account holders. (See the discussion in § 230.4(c) below.)

Some commenters were concerned how the rule might apply to repeat callers who make numerous requests for disclosures for the same account. If an institution has already sent disclosures to a consumer who is repeating requests for the same account, and institution need not respond to the repeated requests, if the disclosures previously provided remain accurate.

An institution must provide disclosures to consumers for each account for which the consumer requests information. If the consumer makes the request in person, disclosures must be provided at that time. If a consumer expresses a general interest in a type of account (NOW accounts, for example) of which an institution offers several versions, an institution may comply by sending disclosures for any

one of the products. Institutions are not required to provide disclosures for accounts that are no longer available to the public. For example, an institution that no longer opens passbook savings accounts (but continues to service existing passbook accounts) is not required to provide account disclosures for the passbook savings account upon request.

Some commenters objected to the proposed duty to "mail or deliver" disclosures; instead, they urged that the regulation use the statutory phrase to "make available" disclosures upon request and allow institutions to merely keep disclosures in their offices or branches for consumers to pick up in person. The Board believes that the purposes of the act would not be furthered if consumers were required to visit branches to obtain information about an account. Convenient access to account disclosures is essential to comparison shopping and in-person visits are not always possible. The Board believes that the Congress contemplated that institutions would have the duty to actually get account information to consumers who request it. Thus, the regulation requires institutions to mail or deliver account disclosures upon request if the requester is not at the institution when the request is made.

Timing requirements. The Board proposed a three-business-day rule—a timing rule used in Regulation Z for certain transactions—for responding to requests from consumers. The Board solicited comment on whether it was necessary to establish a specific time period in which institutions must respond to requests for disclosures, and whether the appropriate period should be three business days or longer, such as 10 business days. Many commenters opposed a specific time limit, stating that competition and customary business practices ensure institutions will respond in a timely manner. If a time limit were imposed, however, commenters requested that timing rules be consistent throughout the regulation and that a period longer than three business days be permitted.

The Board is persuaded that competitive demands require institutions to respond promptly to potential and current account holders. Thus, the final rule requires institutions to respond to requests for disclosures within a reasonable time. Ten business days, consistent with the timing rule for opening accounts, would be considered a reasonable time to respond. Of course, when the consumer is present at the institution and requests information about an account, the disclosures must be given at that time.

Paragraph (a)(2)(ii). Commenters requested clarification about the content of disclosures sent in response to a consumer request for information. Disclosures must be accurate when sent to the consumer, and the regulation has been modified to explain how institutions may comply with that standard in the case of the annual percentage yield, interest rate and a time account's maturity date. An institution must specify an interest rate and annual percentage yield that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and give a telephone number consumers may call to obtain current rate information. The regulation also permits institutions to describe a time account's maturity as a term such as "1 year" or "6 months," rather than a specific date, such as "January 10, 1994," since the actual date will not be known.

Paragraph (b)—Content of Account Disclosures

This paragraph is rearranged from the proposal. For ease of compliance, requirements relating solely to time accounts (listed individually in the proposal as § 230.4(b)(2), (b)(7), and (b)(8)) have been combined in § 230.4(b)(6) in the final rule. Remaining paragraphs have been renumbered accordingly.

A disclosure regarding bonuses has been added, as described in paragraph (b)(7) of this section.

In response to comments received and upon further analysis, the Board has not adopted the proposed requirement that institutions inform consumers if an account involves the risk of a loss of principal (see § 230.4(b)(9) of the proposal). Adopting the rule, which is not mandated by the act, would have added complexity to the regulation. For example, although the provision was aimed at foreign currency denominated accounts, commenters raised concerns about its applicability to losses of principal due to deposit insurance limitations, right of offset and the operation of escheat laws. Although the Board believes that it is important for institutions to disclose to consumers when an account involves a potential loss of principal—particularly in accounts denominated in a foreign currency—information indicates that the industry currently alerts consumers to the risks associated with such accounts. Thus, on balance, the Board believes an additional disclosure in the regulation is not needed at this time.

Paragraph (b)(1)—Rate Information

Paragraph (b)(1)(i)—Annual percentage yield and interest rate. Institutions are required to disclose the "annual percentage yield," using that term, computed in accordance with appendix A, part I. Institutions also are required to disclose the "interest rate," using that term. Aside from the corresponding periodic rate, no other term regarding rates (for example, an "average" rate) is permitted to be used. If the interest rate and the annual percentage yield are the same, institutions must use both terms but may disclose a single figure.

Institutions must also disclose the period of time the interest rate will be in effect after a fixed-rate account is opened. (This does not require institutions to state how long the rate will be offered to consumers who open accounts. However, see the discussion to § 230.8(c)(2), which requires advertisements to state how long the advertised annual percentage yield will be offered.) The final rule clarifies that this requirement applies only to fixed-rate accounts. (The Board believes that disclosures required under paragraph (b)(1)(ii) of this section adequately convey the same information for variable-rate accounts.) If an institution agrees to pay a rate until maturity of a fixed-rate time account, disclosure of the maturity date satisfies this requirement. Fixed-rate accounts other than time accounts could disclose a date, a period, or include a statement that the rate will be in effect for at least 30 days. (See § 230.2(l), which defines fixed-rate accounts as those in which an institution agrees to provide at least 30 days' advance notice of a rate decrease, and § 230.5(a), which discusses change in term requirements for rate decreases for these accounts.) Even if an institution retains the ability to increase a rate without giving prior notice, it should disclose that the initial rate will be in effect for at least 30 days. Any rate increase following delivery of disclosures is not an event that would make the account disclosure incorrect.

Commenters asked for clarification of several issues relating to the disclosure of the interest rate and annual percentage yield. Some institutions asked for guidance about how accurate their disclosures must be when their agreements permit changes as frequently as daily in the rate and yield paid. Some suggested that institutions be permitted to provide a recently available rate, along with a telephone number the consumer could call for current rates. The Board believes that

the most current rate and yield information must be provided to consumers who are opening new accounts. (See paragraph (a)(1) of this section.) The Board believes the Congress did not intend for institutions to disclose, for example, a recent interest rate of 5.00%, if in fact the institution is offering a 4.75% interest rate on the day the consumer opens the account. However, recent rates and yields that are updated at least weekly may be provided to consumers who have merely requested information on an account. (See paragraph (a)(2) of this section.) As mentioned previously, institutions may use inserts or rate sheets in combination with their other disclosures to state current interest rates and annual percentage yields, but institutions must make clear in the account disclosures which rates and yields apply to the account for which disclosures are being given. (See discussion of design requirements in the supplementary information to § 230.3(a), above.)

A number of commenters requested guidance about how minimum balance requirements affect the disclosure of rates. If an institution sets a minimum daily balance to earn interest, it need not disclose that "0%" annual percentage yield applies on those days when the balance in the account drops below the minimum balance. (Similarly, a disclosure of "0%" is not required for institutions that use the average daily balance method, if the consumer fails to meet the minimum balance required for the period.) The Board believes that, in light of the disclosures about minimum balance requirements, consumers will readily understand that interest is not paid if a minimum balance is not maintained, and the rule simplifies disclosures for both consumers and institutions.

Section 230.4(b)(1)(i) of the proposal (cited as § 230.4(b)(1)(A) in the April 13 **Federal Register** notice) included a sentence stating that for stepped- and tiered-rate accounts all interest rates and annual percentage yields must be stated. The final rule does not include this provision in the regulation itself. This requirement is simply an elaboration on the general requirement to state the interest rate and annual percentage yield, and the Board believes it is unnecessary for the regulation itself to contain this rule. This provision does require that, for stepped-rate and tiered-rate accounts, institutions must state all annual percentage yields and interest rates.

A single annual percentage yield must be disclosed for stepped-rate accounts. (See appendix A, part I, paragraph B.) However, each interest rate and the period of time each will be in effect must be provided in the disclosures. For example, if an institution offers a 1-year certificate of deposit with daily compounding and an interest rate of 5.00% for the first 180 days and 5.50% for the remaining 185 days, it might say something like the following: "The interest rate on your account is 5.00% for the first 180 days and 5.50% for the remaining 185 days, with an annual percentage yield of 5.39%." (See Model Clause B-1(a)(iii) in appendix B.)

An institution offering tiered-rate accounts must disclose each interest rate along with the corresponding annual percentage yield (or range of annual percentage yields if appropriate) for that specified balance level. For example, if an institution pays a 5.00% interest rate for balances below $5,000 and a 5.50% interest rate for balances $5,000 or above, both rates must be provided, as well as the annual percentage yields that would apply to the two tiers in the account. (See appendix A, part I for the calculation of the annual percentage yields for stepped-rate and tiered-rate accounts.)

Commenters asked for guidance when the initial rate offered on a variable-rate account is higher than the rate that would otherwise be paid on the account. For example, an institution may promote a particular account by offering to pay a premium rate to new customers for a given period such as 90 days. Such accounts would be considered stepped-rate accounts and the annual percentage yield would be figured according to the rules in Appendix A. (See the supplementary information to appendix A, discussing variable rates.)

In addition, as with any other stepped-rate account, an institution would state the initial interest rate and the time that rate is in effect, as well as the rate that otherwise would apply if the initial rate were not in effect. For example, an institution might state: "You will be paid an interest rate of 6.00% for the first 90 days. The current rate being paid on the account is 4.50%." (The disclosures for variable-rate accounts will alert consumers that the rate may change after 90 days.)

Paragraph (b)(1)(ii)—Variable rates. The act does not expressly require specific additional disclosures for variable-rate accounts. Sections 264(d) and 265(2) of the act, however, recognize that the Board may wish to prescribe specific disclosures for variable-rate accounts. The Board proposed that account disclosures include information similar to the variable-rate disclosures for open-end credit found in Regulation Z.

Commenters agreed that the purposes of the act would be well served if consumers were alerted to the basic features of a variable-rate account, but many commenters expressed concern that lengthy and complicated disclosures would confuse rather than help consumers. The proposal required institutions to provide four pieces of information about variable-rate accounts, and the Board believes it is appropriate for each to be retained in the final rule. The Board believes it is important for consumers to receive basic information about a variable-rate account initially, particularly since consumers will not receive change in terms notices if the rate is later decreased. (See § 230.5(a)(2)(i).)

First, institutions must state that the interest rate and annual percentage yield may change. Second, they must explain how the interest rate is determined. For example, if the interest rate is tied an index (for example, the 1-year Treasury bill) plus or minus a specified margin, the index must be clearly identified and the specific margin stated. If an institution reserves the right to change rates and does not tie changes to an index, the fact that rate changes are solely within the institution's discretion must be stated. Third, depository institutions must explain the frequency—such as weekly or monthly—with which the interest rate may change. Institutions that reserve the right to change rates at any time must state that fact.

Finally, if the deposit contract places any limits on the amount the interest rate will change at any one time or for any period, the limitation must be explained. For example, if the institution places a floor or ceiling on rates or provides that a rate may not decrease or increase more than a specified amount during any time period, that must be disclosed. An institution may describe a floor or ceiling as a specific rate (for example, "your interest rate will always be at least 3%") or by explaining how the limitation operates (for example, "your interest rate will never drop lower than 2% below the interest rate initially disclosed to you"). If there are no limitations placed on rate changes, institutions may, but need not, disclose that fact.

Paragraph (b)(2)—Compounding and Crediting

Paragraph (b)(2)(i)—Frequency. The act requires institutions to disclose the frequency with which interest is compounded and credited, and any

changes in either frequency if a time requirement is not met. The supplementary information in the proposal tracked the act, but stated that institutions would have to disclose if changes in the compounding or crediting frequency would occur "under any other circumstance." The final regulation retains the basic disclosure regarding an institution's compounding and crediting practices. (See the supplementary information accompanying § 230.7(b) for a discussion of crediting practices.) The supplementary information accompanying § 230.4(b)(6)(ii) retains the substance of the statutory disclosure concerning changes in compounding and crediting frequencies, but simplifies the regulation by locating this provision in the paragraph dealing with early withdrawal penalties for time accounts. There it more plainly states that, if the institution changes compounding and crediting frequencies if a time requirement is not met, the institution must describe such changes and the conditions under which they will occur. The Board believes this event will rarely occur, but is retaining the requirement in light of the statutory provision.

Commenters asked about the degree of precision required to describe crediting and compounding practices. Descriptions such as "quarterly" or "monthly" adequately disclose the institution's practices. Also, institutions need not disclose irregular crediting and compounding periods such as if a cycle is cut short at year end for tax reporting purposes.

Paragraph (b)(2)(ii)—Effect of closing an account. Section 264(c)(9) of the act requires institutions to provide a statement, if applicable, that interest that has accrued but not been credited to the account at the time of a withdrawal will not be paid (or credited) due to the withdrawal. Section 267 of the act requires institutions to calculate interest on the full amount of principal in the account each day and prohibits calculating interest using methods such as the "low balance" method. In the proposal, the Board stated its belief that the Congress did not intend the disclosure provisions of section 264 to be interpreted as overriding the general rule regarding payment of interest. Thus, the Board proposed (in § 230.4(b)(7)) that institutions could not fail to pay interest on amounts withdrawn, and the statement required by section 264(c)(9) would be inapplicable.

Many comments were received on this provision. As discussed in § 230.7(b) below, commenters urged the Board to reconsider its interpretation of the act, particularly regarding accounts that are closed between crediting periods. For the reasons set forth in § 230.7, the Board believes that institutions may provide that if an account is closed before interest is credited, the institution need not pay interest that has accrued but not been credited on the account. Thus, the regulation has been revised to add a disclosure of this policy if it is relevant. If an institution has contracted to withhold interest that has accrued but not been credited on an account that is closed, that fact must be disclosed. (See Model Clause B–1(b)(ii).)

This issue was raised in the supplementary information to the proposed disclosure requirements for early withdrawal penalties. However, if an institution discloses an early withdrawal penalty for a time account (see paragraph (b)(6)(ii) of this section) that encompasses that amount of accrued but uncredited interest when all funds are withdrawn before maturity, such a disclosure will satisfy the requirements of this paragraph.

Paragraph (b)(3)—Balance Information

Paragraph (b)(3)(i)—Minimum balance requirements. The regulation requires institutions to disclose any minimum balance required to open the account, to avoid the imposition of fees, or to obtain the annual percentage yield. Institutions must also describe how they determine any minimum balance. A minor revision to the proposal (changing "fees" to "a fee") clarifies that the minimum balance disclosure requirement is triggered by the imposition of a single fee (for example, a $3 fee imposed if the average daily balance in the account drops below $500).

Commenters asked how to make this disclosure if fees on one account are tied to the balance in another account. Such a provision must be explained. For example, if an institution ties fees payable on a NOW account to a minimum balance maintained in a savings account (or a combination of the savings and the NOW account), the NOW account disclosures must explain that fact and how the balance in the savings account (or in both accounts) is determined. The fee need not be disclosed in the savings account disclosures if the fee is not imposed on that account.

Commenters requested guidance on describing the method used to determine a minimum balance. Institutions may combine their explanations of balance computation methods required under paragraphs (b)(3)(i) and (ii) if the methods are the same. Some institutions, however, use different cycles for determining minimum balance requirements for purposes of assessing fees and for paying interest. For example, an account's statement cycle may begin on the 15th of the month and that period is used for interest calculations. However, the institution may assess fees based on the balance in the account for the preceding calendar month. In such cases, institutions must disclose the specific cycle or time period used for each purpose. Institutions may assess fees by using any method they choose.

Paragraph (b)(3)(ii)—Balance computation method. The regulation requires institutions to describe the balance computation method the institution uses to calculate interest on the account. Sections 230.2(d) and 230.2(i) of the final regulation contain definitions of the two balance computation methods permitted under § 230.7(a).

Paragraph (b)(3)(iii)—When interest begins to accrue. The Board solicited comment on whether a disclosure of when interest on noncash items begins to accrue should be required. The Board received many comments on the issue. Section 230.7(c) requires institutions to begin paying interest no later than the business day specified in section 606 of the Expedited Funds Availability Act (EFAA) and its implementing Regulation CC. However, institutions may begin to pay interest earlier, such as the day a noncash deposit (typically, a check) is received by the institution. Commenters generally considered the information to be important for consumers and supported the disclosure. However, many were unsure that the information could be conveyed in a simple and effective way that consumers would readily understand. For example, the procedures that institutions follow to determine when interest must begin to accrue under EFAA are very complex. (See 12 CFR 229.14 and its accompanying staff commentary.) Commenters were concerned that considerable detail would be required and that the information would be more confusing than helpful. Others stated that consumers might not understand general industry terms to describe the balances on which interest begins to accrue, such as "ledger" balance to indicate that interest begins to accrue the day a noncase deposit is received by the institution and "collected" balance to indicate that interest begins to accrue no later than the business day required by EFAA and Regulation CC. Further, the term "collected balance" does not have a uniform meaning within the financial services industry.

The Board believes that comparison shopping by consumers will be enhanced if account disclosures reveal basic differences regarding when interest begins to accrue for noncash deposits. Thus, the regulation requires institutions to briefly state when interest begins to accrue. For example, institutions that begin to accrue interest pursuant to EFAA could explain that interest begins to accrue no later than the business day when the institution receives credit for the deposit. Institutions that begin to accrue interest the day a noncash deposit is received by the institution could state that fact. (See Model Clause B–1(e) in appendix B.)

Finally, some commenters requested that descriptions of balance methods under paragraphs (b)(3)(i) and (ii) of this section distinguish balances that include deposits from the day the deposit is made (described as a "ledger balance") from those that delay inclusion (described as a "collected balance"). Given the additional disclosures required by this subparagraph (3)(iii), the regulation does not require institutions to define balance computation methods as being a ledger or collected balance method.

Paragraph (b)(4)—Fees

The act requires disclosure of fees that may be assessed against the "account holder" as well as against the account. The regulation requires the disclosure of all fees that may be assessed "in connection with" the account which, as explained in the proposal, the Board believes captures the act's intent.

The act requires the Board to specify, in the regulation, which fees must be disclosed. The proposal, however, did not list every fee that might be imposed, nor did it mandate terminology for fees. The proposal provided guidance on types of fees that would and would not be considered to be assessed in connection with an account, and the Board solicited comments on the proposed approach for implementing the act.

Many comments were received on this provision. Some suggested that the scope of the fee disclosure be narrowed. However, the regulation retains a broad requirement to disclose all fees that may be assessed in connection with the account. The Board believes a broader definition more closely implements the statutory requirement and Congressional intent. This broader definition differs from the approach taken for advertising rules discussed in § 230.8(a) in conjunction with "free" or "no-cost" accounts. There, fees that trigger the rule are limited to "maintenance or activity fees." To illustrate, institutions must disclose fees to stop payment on a check under this paragraph, even though the fees would not be deemed an "activity" or "maintenance" fee for purposes of § 230.8(a).

Commenters asked for specific examples of fees that must or need not be disclosed. The Board believes that identifying all fees by name is not possible, as new fees may arise and names may differ among institutions. Types of fees that may be assessed in connection with an account would include, for example, maintenance fees (such as service fees and dormant account fees); fees related to deposits or withdrawals, whether by check or electronic transfer (such as per check fees, fees for use of the institution's automated teller machines (ATMs), fees to stop payment on a check previously issued, and fees associated with checks returned due to insufficient funds); fees for special account services (such as fees for balance inquiries and fees to certify checks); and fees to open or to close accounts (other than early withdrawal penalties for time accounts, which are addressed in paragraph (b)(6)(iii) of this section).

The proposal also required check printing fees to be disclosed. Many commenters opposed the disclosure of this fee, mainly due to the difficulty in describing the amount of the charges (which vary depending on the consumer's choice and which are in the control of a third party vendor). Commenters also stated it would be difficult to comply with an advance change in terms notice, given that the timing of price increases are controlled by the vendor. The Board believes that the concerns about disclosing costs for check printing are valid and therefore permits a variety of ways to make this disclosure. Institutions may disclose the lowest price at which checks could be purchased and indicate that higher prices may apply for the initial order and when checks are reordered; they may give a range of prices; or they may state that prices vary. (See, for example, Sample Forms B–4 and B–5 in appendix B.) Furthermore, the Board has provided an exception in § 230.5(a)(2) from the requirement to send an advance notice of change in terms for check printing fees assessed by third parties.

Fees that may be charged to a consumer for services unrelated to the account are not required to be disclosed. This includes fees that would be assessed to nonaccount holders, even if the amount of the fees differs for account and nonaccount holders. Examples are fees to purchase cashier's or traveler's checks, fees to lease a safe deposit box, fees for handling bond coupon redemption, and wire transfer fees. Although the proposal had included wire transfer fees as a fee assessed in connection with an account, many commenters argued that the service is provided to nonaccount holders as well as account holders and should be considered unrelated to the account. The Board has determined that wire transfer fees are not assessed "in connection with an account." (Of course, as with other fees not required to be disclosed under this paragraph, wire transfer fees may be included with the required disclosures.) Finally, the following fees need not be disclosed: fees for photocopying a statement of interest earned for tax purposes (IRS Form 1099), fees for name changes on an account, fees for a midcycle periodic statement, and fees for wrapping loose coins.

The regulation does not mandate terminology for fees. Thus, different institutions may describe the same type of fee by different names. For example, a monthly fee imposed regardless of the consumer's balance or activity might be identified as a "monthly service" fee, a "monthly maintenance" fee, or simply "monthly" fee, or other term, as long as the term is used consistently throughout the institution's disclosures.

The regulation requires institutions to state the amount of the fee and the "conditions" under which the fee may be imposed. The Board believes that typically the name and description of the fee will satisfy this requirement. For example, if an institution charges a $5.00 monthly service fee, and describes it in that manner, no further information need be provided.

Under the rule stated in § 230.3(c), if fees required to be disclosed under this section are also required to be disclosed under Regulation E (12 CFR 205.7), compliance with the disclosure requirements of Regulation E will be deemed to be in compliance with this section. For example, under Regulation E an institution issuing access devices must disclose fees assessed for transactions at its own ATMs, but is not required to disclose charges assessed by another institution for the use of an ATM owned by the other institution. That will also suffice for this regulation.

However, this regulation covers situations that are not covered by Regulation E. A fee assessed for an electronic fund transfer that is not covered by Regulation E (for example, a transfer of funds between accounts held at an institution) must be disclosed under this section.

Paragraph (b)(5)—Transaction Limitations

The act requires institutions to disclose the terms and conditions and account restrictions applicable to accounts. Adopted as proposed, the regulation requires institutions to state any limitations on the number or dollar amount of deposits to, withdrawals from, or checks written on an account for any time period. If withdrawals or deposits are not permitted on a time account, that fact must be disclosed.

Commenters asked for clarification regarding the disclosure of limitations addressed by Regulation E. Regulation E requires disclosure of limitations on the frequency and amount of electronic fund transfers except where confidentiality is essential to maintain the security of the electronic fund transfer system. (See 12 CFR 205.7(a)(4).) Institutions may rely on Regulation E's disclosure rules regarding limitations on the frequency and amount of electronic fund transfers, including security-related exceptions in complying with this regulation. If, however, disclosures are required under this paragraph, such as if an institution limited the number of transfers from other accounts at the institution each month, the fact that Regulation E exempts "intra-institutional transfers" from its coverage would not relieve the institution from making the Regulation DD disclosure.

Paragraph (b)(6)—Features of Time Accounts

Paragraph (b)(6)(i)—Time requirements. The proposal (in paragraph (b)(2) of this section) required institutions to state any time requirement that must be met to obtain the annual percentage yield on a time account. Commenters requested clarification whether institutions may disclose either a date ("March 3, 1993") or a term ("six months" or "182 days"). The Board believes that the actual maturity date must be given to consumers who open new accounts to ensure consumers know the exact date the account matures. However, institutions may state a term (for example, "six months" or "182 days") rather than a specific date when providing disclosures in response to requests by consumers. (See paragraph (a)(2) of this section.) If the agreement provides that the time account may be redeemed at the institution's option (a "callable" certificate of deposit), the disclosure must state the date or the circumstances under which the institution may redeem the deposit. (See Model Clause B-1(h)(i) in appendix B.) Commenters also asked whether the maturity date stated on the time account certificate would satisfy this disclosure requirement. As stated earlier in connection with § 230.3(a), the Board believes that account disclosures—including those for time accounts—may consist of more than one document, so the certificate could be used. However, all documents containing the required disclosures must be provided to the consumer at the same time and must be in a form the consumer can retain. Thus, if a disclosure is made on a certificate of deposit that must be returned to the institution at maturity, the disclosure must also be provided to the consumer in a form the consumer may retain permanently.

Paragraph (b)(6)(ii)—Early withdrawal penalties. Section 264(c)(10) of the act requires institutions to disclose any requirement relating to the nonpayment of interest, including any early withdrawal penalty. The Board proposed (in § 230.4(b)(7)) to limit this requirement to time accounts, although the act does not explicitly do so, since an early withdrawal contemplates a maturity date, which exist only in time accounts. Commenters supported this limitation and the final regulation reflects this position. The act and regulation place no limitations on how early withdrawal penalties are calculated.

Commenters asked for clarification of whether existing rules and contract rights are affected. Rules relating to the imposition of early withdrawal penalties found in regulations such as the Board's Regulation D are not affected by this provision. This paragraph does not confer upon consumers a right to withdraw funds from a time account even if they are willing to accept the penalty described in their account disclosures. It does not impair an institution's right to refuse to permit a withdrawal prior to the maturity of a time account. For institutions that choose to permit withdrawals, this disclosure provision also does not regulate under what circumstances the institution may impose an early withdrawal penalty.

The regulation requires institutions to disclose the conditions under which an early withdrawal penalty will be assessed. Some commenters asked whether bonuses that may be "reclaimed" must be disclosed under this provision. The Board believes that institutions that offer bonuses for time accounts must disclose if the bonus may or will be reclaimed and the circumstances under which the reclamation will occur, since this is a type of early withdrawal penalty.

The language of the regulation differs from the proposal in three respects. In response to comments from institutions that impose early withdrawal penalties on a case-by-case basis, the regulation permits institutions to disclose the possibility—rather than the certainty—of such a penalty. Thus, institutions may state they "may" impose a penalty if that more accurately describes their agreement with the consumer. Also, the regulation clarifies that institutions must state how the penalty is calculated. For example, institutions may disclose a specific dollar amount or describe the penalty, such as "seven days' interest." (If accrued but uncredited interest is withheld as a part of, or in addition to, the early withdrawal penalty, this must also be disclosed.) Model Clause B-1(h)(ii) in appendix B provides examples of how early withdrawal penalties may be disclosed.

Also, many commenters were concerned that the proposal seemed to require institutions to calculate an interest rate and an annual percentage yield assuming that an early withdrawal penalty will be imposed during the term of the time account. The regulation does *not* require institutions to make such calculations, and the sentence has been deleted from the regulation. However, if a withdrawal of some funds triggers a change in the interest rate and annual percentage yield that is paid on funds remaining on deposit, or a change in the compounding or crediting frequency, those terms must be disclosed as an early withdrawal penalty.

Commenters requested guidance on the disclosure of penalties associated with withdrawals of funds from club accounts such as "holiday club" accounts that are time accounts. (See discussion in § 230.2(u).) If these accounts meet the definition of a time account, they must disclose any early withdrawal policy.

Paragraph (b)(6)(iii)—Withdrawal of interest prior to maturity. The proposal has been revised to add a disclosure to alert consumers to the effect of withdrawing accrued interest before additional interest begins to accrue on that account, since the annual percentage yield for time accounts generally is based on the assumption that interest remains in the account until maturity. Institutions commonly offer certificates of deposit that compound interest monthly (or quarterly) and may permit consumers to withdraw (or transfer) accrued interest periodically or to leave the interest in the account until maturity. For example, assume an institution offers the same interest rate with monthly compounding to two

consumers. Under the proposal, if one withdrew interest monthly and the other withdrew interest only at maturity, both would have received identical annual percentage yield information even though their actual earnings would differ. Some commenters recognized this problem and suggested the act's purposes would be better served if the Board revised its method of calculating annual percentage yields to require specific calculations based on the consumer's choice when the account is opened about whether to withdraw interest or leave it in the account until maturity. The Board believes, however, that such a rule requiring different annual percentage yields would significantly complicate the regulation, and possibly confuse consumers shopping for such accounts.

Upon further analysis, the Board believes the requirement adopted in the final regulation will better assist consumers. If, on a time account that compounds interest during the term, a consumer elects to withdraw accrued interest, the institution must disclose that the annual percentage yield assumes that interest remains on deposit until maturity and that a withdrawal reduces the earnings on the account. To ease compliance, this disclosure may be provided any time this option to withdraw interest is given, regardless of whether the consumer actually exercises the option or indicates any preference about withdrawals.

The Board believes it is appropriate to limit the statement to time accounts, where consumers may have a greater expectation about the effect of compounding on amounts deposited. In the unusual event an institution requires such interest withdrawals, the disclosure would not be required since the annual percentage yield would reflect the effect of the interest withdrawals. This disclosure is not required when interest may only be withdrawn on a time account due to rare circumstances, such as due to the death or incapacity of an account holder.

Paragraph (b)(6)(iv)—Renewal policies. The act requires institutions to disclose the "terms and conditions" applicable to accounts generally, but does not expressly mandate disclosure of an institution's policies about renewal of time accounts. Section 264(d) of the act, however, recognizes that the Board may wish to require information to be given regarding renewal policies for time accounts. Thus, the proposal required institutions to include a statement of whether or not the time account will automatically renew at maturity and, if the account will not automatically renew, to state whether interest will be paid on funds not withdrawn from the institution.

The Board believes it is important for consumers to be informed whether a time account will automatically renew, since time accounts limit the consumer's access to his or her funds in a way other accounts do not. The Board also believes it is important for consumers to know that the consumer must contact the institution at a later time to renew an account and whether interest will be paid on funds after maturity if the consumer does not renew the account, in the case of "non-rollover" time accounts. Thus, the regulation requires both of these disclosures. For example, an institution might disclose for a non-rollover time account that "this account will not automatically renew at maturity and the funds will be placed in a noninterest-bearing account." If funds are placed in an interest-bearing account, this disclosure does not require institutions to state the rate that may be paid. However, if interest is paid for only a limited period of time, the time period must be disclosed. (See Model Clause B–1(h)(iv)(2) in appendix B.)

Additionally, the Board solicited comment on whether institutions should be required to disclose whether an automatically renewable account has a "grace period" and the length of such a period. (See § 230.2(m), defining grace period as a period following the maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty.) Most commenters supported a disclosure of grace periods as important information for consumers.

Thus, the regulation requires institutions to inform consumers with automatically renewable time accounts whether or not a grace period exists and the length of such a period. For example, an institution might disclose, "you may withdraw the deposited funds without penalty for 10 calendar days after the maturity date of this account." This disclosure does not require institutions to state whether or not interest will be paid for the grace period if the funds are withdrawn. (Rules found in the Board's Regulation Q and other federal financial regulatory agencies' regulations relating to the payment of interest following maturity of a time account are not affected by this regulation. See 12 CFR 217.3, footnote 1, permitting institutions to pay interest for up to 10 days after maturity of a "time deposit," as that term is defined in Regulation Q, if the deposit is not renewed.)

Paragraph (b)(7)—Bonuses

The final regulation adds a new disclosure requirement relating to bonuses. (See § 230.2(f) for the definition of "bonus.") The Board believes that the language in section 262(a) of the act regarding disclosures about the terms and conditions of accounts encompasses bonuses, and that the act's purposes are furthered when consumers receive essential information about bonuses offered on an account. Thus, the regulation requires that institutions offering bonuses state the amount and type of bonus, and disclose any minimum balance or time requirement to obtain the bonus and when the bonus will be provided. If the minimum balance or time requirement is otherwise required to be disclosed, institutions need not duplicate the disclosure for purposes of this paragraph. The Board believes the additional disclosure will provide consumers with important information without significantly increasing compliance burdens.

Paragraph (c)—Notice to Existing Account Holders

Paragraph (c)(1)—Notice of availability of disclosures. Section 266(e) of the act requires institutions to include a notice on or with any regularly scheduled periodic statement sent to existing account holders "within" 180 days of issuance of the regulation. Account holders who receive periodic statements must receive the notice. Institutions are not required to provide any notice to account holders who do not receive periodic statements. (This parallels the approach taken in § 230.6, in that *if* an institution sends a periodic statement on an account, the disclosure requirements of § 230.6 are triggered.)

The act requires that the notice state both that the account holder has a right to request disclosures and that the consumer may wish to make such a request. In the proposal, and in the final regulation, the Board simply requires a statement that the account holder may wish to request the disclosures. The Board believes this adequately alerts consumers to the availability of disclosures for their account. However, some commenters were concerned that consumers might misinterpret the notice as implying that account terms had changed. Institutions may include additional information with the notice to alleviate any such concerns, or to indicate (if applicable) that the consumer has already received similar disclosures as required by state law. The notice must, however, make clear

that the consumer may request a copy of the disclosures. The notice required by this paragraph need only be provided once.

Comments received on the proposal requested guidance on: (1) The identification of consumer accounts from the existing records of the institution, (2) the need to create disclosures for accounts no longer offered to the public; and (3) the timing and format of the notice.

Existing consumer accounts. The proposal required that notice be provided to existing account holders. All individual consumer accounts are covered by this provision. However, as discussed earlier in § 230.2(a), accounts held by an unincorporated nonbusiness association of natural persons prior to March 21, 1993, are not covered by the regulation unless the association notifies the institution that it fits the "consumer" definition. If the institution is so notified, the institution must implement the requirements of the regulation (for example, beginning to accrue interest no later than required by § 230.7(c)) within a reasonable time after the notice is received. If an institution is notified before the mandatory compliance date, institutions are not required to send the notice required by this paragraph, but must treat the account as a consumer account within a reasonable time after the notification.

Currently offered accounts. The final rule requires that institutions provide disclosures only for accounts that are currently available as of March 21, 1993. (See discussion of paragraph (a)(2) of this section.) Commenters noted that many institutions continue to carry accounts that are no longer offered to the general public. For example, if an institution acquires accounts during an acquisition, it may maintain the accounts as a courtesy to customers of the acquired institution, even though the account type will not be offered thereafter. The Board does not believe it was the intent of the Congress to require tailored disclosures for each and every existing account, regardless of whether the account is still offered to customers. The Board recognizes the significant cost burden associated with designing separate disclosures for existing accounts that are no longer offered, and the limited use of such disclosures in the future (as consumers would not be able to open such an account). The Board also believes if disclosures for such accounts were required, institutions might simply change the terms of existing accounts to conform them to accounts currently offered. Thus, the regulation limits the duty to provide the notice (and disclosures) to accounts available to the public as of the mandatory compliance date of the regulation.

Timing and format requirements. In the proposal, the Board noted that if the statutory requirements were interpreted literally, institutions would have to include a notice to existing account holders prior to the mandatory compliance date of the regulation. The Board solicited comment on whether it would be preferable for all compliance duties to begin six months after the Board has adopted final regulations (when compliance becomes mandatory). Virtually all of the commenters supported a single timing rule for initiating compliance with the regulation, noting the difficulty of providing a notice and having disclosures ready prior to the mandatory compliance date of the regulation. Institutions commented on the act's relatively short time frame to implement operational changes based on the new regulatory requirements (for example, balance calculation methods), and expressed concern that the changes may not be in place until the mandatory compliance date. The final rule reflects the fact that compliance is not required until six months after the Board adopts final regulations.

Many commenters sought guidance on which periodic statement must include the notice. The final regulation clarifies that the notice required by this section may accompany either the first periodic statement sent after the mandatory compliance date or the periodic statement for the first cycle beginning after that date. The rule applies regardless of the interval between periodic statements. For example, assume an institution's statement cycle begins March 15, 1993, ends April 14, and the statement is sent April 15; the next statement cycle begins April 15, and ends May 14, and the statement is sent May 15. The institution may provide the notice on either the April 15 statement, since it is the first one mailed after the mandatory compliance date, or the May 15 statement, since it covers the first cycle beginning after the mandatory compliance date.

A number of commenters expressed interest in providing the notice before the mandatory compliance date. As a general matter, institutions may begin complying with the regulation any time after its adoption and before the mandatory compliance date. Therefore, institutions may provide the notice on a periodic statement before March 21, 1993, but only if the institution is prepared to provide account disclosures upon request as of the date the notice is sent. This will ensure that the Congressional intent regarding availability of disclosures for existing customers is met. If the institution does comply before the mandatory compliance date, it must establish procedures to ensure that consumers opening new accounts before that date, but after the notice is provided to existing customers, receive account disclosures.

The final rule tracks the statutory language by requiring that the notice be included "on or with" the periodic statement. The notice can be on an insert included with the statement, but it cannot be sent out as a separate mailing. The notice must state that consumers may request account disclosures containing terms, fees, and rate information for their account, or words of similar meaning.

If the institution provides the notice of availability to existing account holders and the consumer requests disclosures, the act does not prescribe how institutions must respond. The proposal stated that if the institution received a request, it would have to provide the account disclosures described in § 230.4, including the current interest rate and annual percentage yield for the consumer's account. The Board recognizes that it may be difficult to distinguish a request for disclosures by an existing account holder from a request by a potential customer. Thus, the final regulation allows institutions to treat an existing account holder's request under this paragraph as it would treat any consumer's request for disclosures under paragraph (a)(2) of this section.

Institutions may, but are not required to, provide a phone number or address for existing consumers to use to make the request for disclosures. If, however, the request is received in a manner other than the notice directed, the institution is still required to provide the disclosures as specified in paragraph (a)(2) of this section. The Board believes that this uniform approach to requests for disclosures will ease compliance for institutions and assure consumers of convenient access to information about their accounts whether they are existing or potential customers.

Paragraph (c)(2)—Alternative to notice. As an alternative to providing the notice of availability, the final rule permits institutions to send the account disclosures themselves, either with the periodic statement or in a separate mailing. While the proposal required the disclosures to be provided with a periodic statement, many commenters

noted operational difficulties in including a full set of account disclosures with the statement mailing. Therefore, a revision has been made to allow a separate mailing. If disclosures are provided separately from the periodic statement, however, they must be sent out no later than when the notice of availability is required to be sent after the mandatory compliance date. Further, institutions that send multiple account disclosures in lieu of sending the notice of availability need not identify which account the consumer holds, and may send account disclosures that comply with paragraph (a)(2) of this section. The Board believes this rule will ease compliance for those institutions that go beyond the strict requirements of the regulation to provide consumers with the actual disclosures about their accounts.

Section 230.5—Subsequent Disclosures

The heading for § 230.5 has been revised from the proposal. As discussed below, the Board believes that combining rules relating to disclosures required subsequent to the account opening will aid compliance. Thus, the heading is changed to identify more accurately the section's content.

Paragraph (a)—Change in Terms

The proposal contained the requirements for, and the exceptions from, the advance notice of change in terms in a single paragraph. For ease of compliance, the final regulation separately discusses when notices are and are not required.

Paragraph (a)(1)—Advance notice required. Section 266(c) of the act requires institutions to send a 30-day advance notice to the consumer of any change in the items required to be disclosed in the account disclosures if the change might reduce the annual percentage yield or adversely affect the consumer. The proposal required a written notice describing the change and its effective date to be sent 30 days before the effective date of the change. The final regulation follows the act and proposal, but establishes certain exceptions to the advance notice requirement, as discussed below.

The notice provision governs changes in terms in accounts existing when compliance with the regulation becomes mandatory, not solely accounts opened after that date. The regulation does not, however, require a 30-day advance notice for a change in terms if this would require an institution to send a notice prior to the mandatory compliance date. For example, an institution is not required to send an advance notice for a change that becomes effective March 31, 1993, since that is less than 30 days after the mandatory compliance date.

Content. The notice requirement applies only to items of the type required to be included with the account disclosures. For example, if an institution increases the minimum balance required to earn interest or to avoid imposition of a fee or increases the fee it charges for stop payment orders, an advance notice must be provided. Similarly, if the interest rate on a fixed-rate account decreases, the institution must send a notice in advance of the scheduled rate change. (An advance notice of an increase in the interest rate is not required by the regulation.) Increases in an institution's charge for services not related to an account, such as for purchasing traveler's checks, does not trigger the notice requirement, since it is not required to be disclosed under § 230.4(b). If a single document containing disclosures for two types of accounts was initially provided, and the institution later changes a term relevant to only one of the accounts, the change in terms notice need only be given to consumers holding that type of account, and not to the holders of the second type of account.

Commenters requested guidance on several issues relating to the notice requirement. Regarding the format for the disclosure, the general rules in § 230.3(a) apply. Institutions may include the change in terms disclosure on a regular periodic statement or in a special mailing, and may combine information concerning the changed term with other information on the same or separate pages. Institutions that wish to provide an entire updated account disclosure may do so as long as the changes are specifically brought to the consumer's attention. For example, institutions may state that "X" fee has been changed (including, of course, the amount of the new fee), or use an accompanying letter that alerts the customer to the new fee, or highlight the changed term in some way. To ensure that consumers understand when the change may affect their accounts, institutions must disclose the effective date, for example, "as of July 15, 1993." Words similar to "in 30 days" cannot be used unless the notice clearly indicates the starting date.

A change in terms notice is not triggered if changes are specifically identified in the account disclosures given initially. For example, if a NOW account disclosure states that the monthly service fee of $5.00 is waived for employee account holders during their employment, but will be assessed if the account holder is no longer employed at the institution, no advance notice is required to begin assessing the monthly service account fee when the consumer leaves the employment of the institution. Similarly, if an account is opened after an institution has sent a change in terms notice to its existing account holders but prior to the effective date of the change, the institution is in compliance if the change in terms notice is provided to the new customers along with the account disclosures before the account is opened.

If a change will apply during the subsequent term of a renewing rollover time account, it is not a "change in terms" requiring a notice under this paragraph. (See paragraph (b) of this section, below, for disclosure requirements for maturing time accounts.) For time deposits longer than one month, however, if terms change during the term of a time account, the 30-day notice would have to be provided.

Pursuant to § 230.3(c), if the term requiring a notice to be sent is a term that triggers a change in terms notice under Regulation E, compliance with the disclosure and timing requirements of Regulation E will satisfy the requirements of this section. (See 12 CFR 205.8, which requires change in terms notices to be sent at least 21 days before the scheduled change.)

Paragraph (a)(2)—No notice required—Paragraph (a)(2)(i)—Variable-rate changes. The Board solicited comment on whether an exception to the change in terms notice requirements should be made for rate changes that occur in variable-rate accounts. Sections 265 and 269(a)(3) of the act authorize the Board to make exceptions to the act's requirements for variable-rate accounts, and the Committee report accompanying H.R. 2654 of the House Committee on Banking, Finance and Urban Affairs, September 12, 1991, indicates the change in terms requirement was not intended to apply to changes in the interest rate (and corresponding changes in the annual percentage yield) for variable-rate accounts. (See discussion of this issue in connection with § 230.2(v), above.) In the proposal, the Board expressed concerns about the possibly burdensome nature of an advance notice requirement for variable-rate accounts, and solicited comment on the advantages and disadvantages of creating an exception to the rule for such accounts.

The Board received many responses to its request for comment and virtually all of them supported the proposed

exception. Many commenters echoed concerns raised by the Board in the proposal. Commenters stated that an advance notice requirement for changes to the interest rate in variable-rate accounts would be very burdensome to administer. They suggested that if institutions were required to send advance notices for rate changes in a declining rate environment, many institutions would lower the rate more than they otherwise might to avoid the cost of sending frequent notices. Thus, lower rates would be paid to consumers than would otherwise be the case. Others stated that such a restraint on an institution's ability to make timely adjustments to its balance sheet raised safety and soundness concerns. Commenters also contended that the regulation's disclosure requirements (see § 230.4(b)(1)(ii)) alert consumers to the potential for rate changes and their possible frequency. And for those accounts for which periodic statements are sent (such as NOW or money market accounts), information about the annual percentage yield earned that is required under § 230.6(a)(1) will reflect rate changes that have occurred.

Thus, the Board is relying on its exception authority in section 265(2) of the act to further the purposes of the act. For the reasons expressed in the proposal and discussed above, the Board finds it necessary to exempt rate changes for variable-rate accounts from the advance notice requirements of the regulation.

In the proposal the Board expressed its concern that for variable-rate accounts where periodic statements are not sent—such as passbook savings accounts—considerable time may pass before consumers learn about rate changes on their accounts. The Board solicited comment on whether institutions should be required to send a notice after the rate is decreased on a variable-rate account if periodic statements are not furnished.

Comments were divided, with some supporting and others opposing after-the-fact notices. Those who favored a notice argued that a decrease in rates is important information for consumers, and that institutions should be required to provide the information to consumers within a reasonable period after the change occurs. Those who opposed it were apprehensive about the costs and burdens involved, and suggested that institutions would pay lower rates to mitigate such costs. They also pointed out that consumers were on notice of the possibility of rate decreases and could always contact the institution for current rates.

Based on comments received and upon further analysis, the regulation does *not* require institutions to provide an after-the-fact notice of a decrease in rates for variable-rate accounts for which no periodic statements are sent. The Board believes that account disclosure adequately alert consumers to potential rate changes and that they have easy access to current rate information. Also, the Board recognizes that the cost of sending notices may cause institutions to delay or not implement rate increases in a volatile rate environment that otherwise might be passed on to consumers.

Paragraphs (a)(2)(ii)—Check printing fees. The Board is creating a limited exception to the change in terms notice requirements for one type of fee involved in accounts but assessed by third parties. The Board received many comments regarding its proposal that check printing fees be included in the account disclosures, which would cause later changes in those fees to trigger the notice requirements of this section. Commenters objected to the proposal, stating that institutions could not assure compliance with the change in terms notice provision because vendors control when price changes become effective and consumers control when the fee is imposed (that is, when the checks are ordered). In light of these problems the Board believes that, pursuant to section 269(a)(3) of the act, an exception to the advance notice requirement is necessary for fees assessed by third parties for printing checks. The exception is narrowly drawn and is created to facilitate compliance with the act. Unlike other fees strictly within the control of institutions, the amount of check printing fees is in the control of vendors, who determine the effective date of price changes, and consumers, who decide whether or not to purchase checks from the vendor associated with the institution and, if so, what style of checks will be chosen and when the checks will be ordered.

Paragraph (a)(2)(iii)—Short-term time accounts. The Board is creating an exception to the advance notice requirement for changes in terms for short-term time accounts, defined as those with maturities of one month (a period up to 31 days) or less. As discussed in paragraph (c) of this section, the Board is creating an exception to the advance notice requirements for rollover time accounts with maturities of one month or less. The Board finds a similar exception to be appropriate for the advance notice requirement for changes that occur after an account is opened and prior to the next scheduled maturity date for both rollover and nonrollover time accounts with maturities of one month or less. Requiring institutions to send a 30-day advance change in terms notice for such time accounts is impossible. It would be burdensome for institutions without providing meaningful benefits to consumers holding the time accounts. (As discussed in paragraph (c) of this section, however, institutions are required to send after maturity a disclosure of any difference in the terms of the new account as compared to the terms for the existing account.)

Paragraph (b)—Notice Before Maturity for Time Accounts Longer Than One Month That Renew Automatically

Disclosure requirements for time accounts that automatically renew without the consumer's request (for example, "rollover" certificates of deposit) were outlined in § 230.4(a)(3) of the proposal. For ease of compliance, all rules governing disclosures of pending maturities and other terms for such time accounts are contained in paragraphs (b) and (c) of this section.

For existing rollover time accounts that mature after the mandatory compliance date, institutions must start providing notices after that date, but need not send notices prior to that time. For example, if a rollover certificate of deposit opened in 1992 matures five days after the mandatory compliance date, an institution is not required to send a notice since this would require an institution to send a notice prior to the mandatory compliance date of the regulation. However, an advance notice would be required if the same account matured on April 21, 1993, a date more than 30 days after the mandatory compliance date.

The act requires account disclosures to be provided to consumers at least 30 days prior to the maturity of a time account that is renewable without notice from the consumer. The proposal required institutions to mail or deliver the account disclosures described in § 230.4(b) to such consumers at least 30 days and not more than 60 days prior to maturity. The proposal provided an exception from the advance notice requirement for rollover time accounts with maturities of three months or less (though it required disclosures to be sent after renewal in such cases). The Board requested comment on an exception from the statutory requirements based on a tiered approach: disclosures would be sent 30 days prior to maturity for time accounts with maturities over six months, 15 days for time accounts with

maturities between one and six months, and no advance disclosures for time accounts with maturities less than one month. The Board also asked for comment on an alternative approach to disclosing rate information since rates typically are not known at the time the act requires disclosures to be made.

Most comments received by the Board on the proposed regulation discussed the implementation of the statutory requirement to provide disclosures for automatically renewable time accounts in advance of maturity and expressed considerable concern about the proposed rule. In particular, comments focused on (1) an exemption for short-term time accounts, (2) an alternative timing rule that allows institutions to provide the information closer to the scheduled maturity date, and (3) the content of disclosures, and how to disclose the annual percentage yield and interest rate if these rates are not known when the account disclosures are sent.

With regard to short-term accounts, commenters said it was impossible to send notices 30 days in advance of the first renewal of time accounts with maturities under 30 days. Further, they argued that the burden to institutions of complying exceeded whatever benefit consumers might receive from a notice received after the terms had become obsolete. Others remarked that consumers who hold such time accounts are often sophisticated investors who would find frequent reminders unnecessary.

Several hundreds of commenters urged the Board to shorten the timing of the advance notice for all time accounts. Based on their institutions' experiences, commenters stated that a lead time of 30 days was too long for an effective notice of maturity, and reported that consumers preferred to receive reminders closer to maturity so they would be less likely to forget when the time account automatically renewed.

Commenters also questioned whether consumers benefited from receiving all of the disclosures prior to maturity even if none of the terms (other than rates) had changed. Commenters expressed concern about the cost and value to consumers of sending all the disclosures, especially for short-term time accounts.

The Board finds that creating three exceptions to the statutory requirement to provide account disclosures for automatically renewable time accounts 30 days in advance of maturity is necessary to facilitate compliance, benefit consumers and carry out the purposes of the act. The final rule provides that: (1) Disclosures may be given closer to maturity rather than a full 30 days in advance as long as at least a five-day grace period is provided; (2) maturity notices for time accounts with maturities of one year or less need not provide all the information contained in an account disclosure, but only the key information and any changed terms; and (3) no advance notice is required for time accounts with maturities of one month or less. The rule adopted by the Board differs from the proposal. It addresses many of the concerns voiced in the comments and provides flexibility to institutions in designing their prematurity notices. For automatically renewable time accounts with maturities of more than one year, institutions must provide full account disclosures as the act requires. If the scheduled maturity date is one year or less but more than one month, institutions must provide key information and any terms (other than rates) that may be different on the renewing account compared to those on the existing account. If the maturity date is one month or less (a period up to 31 days), advance disclosures are impracticable to deliver, but institutions must provide a notice of any changed terms (other than rates) applicable to a renewed account within a reasonable time after renewal.

Alternative timing rule. Many commenters urged the Board to create an alternative timing rule to the act's 30-day advance notice requirement that would allow institutions to provide advance disclosures closer in time to the maturity date. Most commenters believed their existing practice of sending notices 10 to 15 days in advance of the scheduled maturity date was more beneficial to consumers than the proposed 30-day advance notice. A number of institutions reported having changed their practices from 30 days to a shorter time period in response to consumer preferences. They suggested that notices sent far in advance of maturity are ineffective as reminders and do not change consumers' tendency to begin comparison shopping much closer to the actual maturity date (or during the grace period where one is given) when the renewal rate is known. The Board agrees. Thus, the regulation provides a timing rule for advance disclosures as an alternative to the 30-day rule—one that involves a consumer advantage.

The alternative rule provides a "sliding scale" of 20 calendar days advance notice, provided at least a five calendar day grace period is given. If an institution provides a grace period of at least five days on rollover time accounts, the regulation permits institutions to provide the required disclosures 20 days before the end of the grace period. Thus, if a five-day grace period were offered, an institution must send the required disclosures at least 15 days before the maturity date. If an institution offers a 10-day grace period, the advance disclosures must be sent at least 10 days before the scheduled maturity date. (Of course, the institution could send the notice more than 10 days in advance of maturity.)

This alternative provides institutions with great flexibility in sending notices closer to maturity. Also, the rule may encourage institutions who do not offer grace periods to do so. Most important, the alternative timing rule benefits consumers, who will be able to contact the institution within the grace period and learn the actual annual percentage yield and interest rate being offered on the renewing time account before they are committed to the renewal. The alternative may be used by institutions that provide a grace period of at least five days. Institutions that do not wish to offer grace periods of at least five days must provide the 30-calendar-day advance notice.

The Board believes this alternative benefits consumers by providing them with notices that will be effective reminders of the upcoming maturity of their time accounts and useful tools for comparison shopping at a time when competing rates and yields are more likely to be known. Commenters frequently reported that they offered grace periods of 7 to 10 days following maturity and gave advance notices of 7 to 15 days before maturity. Thus, the alternative rule also provides great flexibility to many depository institutions to maintain their existing advance notice and grace period schedules. For example, institutions that currently provide notices 14 days in advance of maturity and offer a 10-day grace period could avail themselves of the alternative timing rule, without changing their practice.

Paragraph (b)(1)—Maturities of longer than one year. If an automatically renewable time account has a maturity longer than one year (more than 365 days, or more than 366 days in a leap year), the regulation tracks the statutory requirement that institutions provide consumers with all applicable account disclosures required for new accounts (see § 230.4(a)(1)), and adds a disclosure of the date the existing account matures. The Board believes consumers need to be informed of the exact date the account matures to make timely decisions about the account. Although the proposal required full account disclosures to be given to all consumers with rollover time accounts with

maturities of more than three months, many commenters urged that a cut-off of one year was more appropriate and that is used in the final regulation.

The regulation addresses the problem presented when advance disclosures are required to be sent before the interest rate and the annual percentage yield for the renewed time account are known. The Board does not believe the act requires institutions to "lock in" or guarantee the rates for an account at the time of the advance notice. In its proposal, the Board raised concerns about a consumer's ability to comparison shop effectively and the confusion that might result if consumers were given the annual percentage yield and interest rate that were in effect at the time the notice was sent, but which would not necessarily apply at maturity. Commenters shared the Board's concerns, and supported the proposal of an alternative disclosure concerning rate information. The regulation requires those institutions to state that the interest rate and the annual percentage yield for the account have not yet been determined, the date when they will be determined, and a telephone number the consumer can call to obtain the interest rate and the annual percentage yield that will be paid if the account renews. The Board believes consumers are better served by receiving the actual annual percentage yield that will apply to the renewed time account, even if they must contact the institution to do so. Furthermore, if institutions were required to provide rates as of the date of the notice, consumers would have to call the institution to determine the actual annual percentage yield at the time of renewal anyway. Therefore, the alternative of including the most recent annual percentage yield appears to be of little benefit to consumers.

Paragraph (b)(2)—Maturities of one year or less but longer than one month. Many commenters agreed that, other than for automatically renewable time accounts with very short maturities, advance notices provided consumers with a useful reminder about the upcoming maturity. However, many questioned the value of repeating full account disclosures in advance, given that the key terms of the account—the annual percentage yield and the interest rate—were likely to be unknown at the time the disclosures were given. Similarly, commenters were skeptical about the value of providing terms that remain unchanged, such as the balance computation method, and pointed out that terms of time accounts seldom change except for the rate. They argued that too much information may not be helpful to consumers, and urged the Board to consider alternative disclosures for automatically renewable time accounts with maturities that were not very long.

The regulation therefore provides an alternative to institutions offering rollover time accounts bearing maturities of one year (365 days, or 366 days in a leap year) or less but longer than one month (31 days). Institutions may give full account disclosures for these time accounts as they do for automatically renewable time accounts of longer than one year. For example, if they found it simpler to have a single procedure, institutions could provide all account disclosures plus the existing account's maturity date for all their time accounts with maturities greater than one month.

Alternatively, institutions may provide an abbreviated notice for these intermediate-length time accounts that tells the consumer the date the existing account matures and the maturity date if the account is renewed, the interest rate and the annual percentage yield if they are known (or, if they are not known, the fact that they have not yet been determined, the date when they will be determined, and a telephone number the consumer can call to obtain that information), and any change to the terms required to be disclosed under § 230.4(b) when the account was opened. (Of course, if a change occurred that would apply to the time account prior to its scheduled maturity, the change in terms rules in paragraph (a) of this section would apply.)

Thus, institutions have great flexibility in providing disclosures for rollover time accounts with maturities of longer than one month and up to one year. And, whether full or abbreviated disclosures are provided, the information may be sent either 30 calendar days before maturity, or 20 calendar days before the end of a grace period (of at least five days). Thus, if an institution wishes to offer a five-day grace period on some automatically renewable time accounts and a 10-day grace period on others, this rule permits the institution to send all notices 15 days prior to maturity, or to establish separate mailing schedules for each category.

Paragraph (c)—Notice for Time Accounts One Month or Less That Renew Automatically

The legislative history of the act recognizes that the Board may wish to establish special rules for short-term accounts. (See the Committee Report accompanying H.R. 2654, of the House Committee on Banking, Finance and Urban Affairs, September 12, 1991.) The Board finds that for automatically renewable time accounts bearing maturities of one month or less, the purposes of the legislation are not served by requiring advance disclosures to be provided for renewing accounts. In the case of very short-term time accounts such as seven-day certificates of deposit, any advance timing requirement in excess of seven days is impossible. Also, the Board is concerned that the cost of sending notices for short-term rollover time accounts might discourage institutions from continuing to offer such accounts and this could eliminate a useful investment vehicle for consumers. Finally, the Board is not persuaded that consumers benefit by constantly receiving account disclosures, particularly of terms that have not changed. Thus, the regulation does not require institutions to provide advance disclosures relating to the renewal of automatically renewable time accounts bearing maturities of one month (31 days) or less.

As proposed, institutions were required to provide full disclosures at or after maturity of short-term time accounts—no later than 10 business days after such accounts were renewed. Commenters opposed the proposal for a variety of reasons. They argued that disclosures sent after maturity do not serve as a reminder of the pending maturity nor do they aid comparison shopping since consumers likely would not receive the rates applicable to the account until after the account was renewed. Further, commenters suggested that, for automatically renewable time accounts with very short maturities such as seven days or 30 days, the delivery and receipt of 52—or even a dozen—account disclosures each year were burdensome to institutions and not useful to consumers. Many commenters suggested that an exception be created from any renewal notice requirements for automatically renewable time accounts with very short maturities. The Board agrees that full disclosures may not be necessary for these short-term accounts. However, the Board believes that consumers should be notified if terms other than rates have changed since the last renewal. If this were not required, an institution could change a feature such as compounding frequency or the length of a grace period and the consumer might never receive notice.

The final regulation therefore requires institutions to provide limited information to consumers with rollover time accounts with maturities of one month (31 days) or less. Institutions are not required to send notices in advance

of maturity. However, if a term disclosed when the account was opened (other than the interest rate and annual percentage yield) changes at renewal, institutions must send a brief notice describing the change within a reasonable time after the renewal of the new account. While this notice may rarely be sent for short-term time accounts since non-rate terms seldom change, the Board believes the provision reflects Congressional intent to provide consumers with key information while accommodating the operational concerns expressed by commenters.

Paragraph (d)—Notice Before Maturity for Time Accounts Longer Than One Year That Do Not Renew Automatically

The act requires that account disclosures be provided to consumers prior to the maturity of an automatically renewable time account, but does not address whether any notice or disclosures should be provided to consumers prior to the maturity of a time account that renews only upon the consumer's request. The proposal required that consumers holding such accounts with maturities of longer than three months receive a brief advance notice that identifies the maturity date of the time account and explains what happens to the funds after maturity if the consumer chooses not to renew the account. Consumers holding nonrenewable time accounts with maturities of three months or less would not have received advance notices under the proposal. (If they chose to reinvest the funds in another time account, however, they would receive a complete set of disclosures for a new account.) The Board solicited comment on three issues:

(1) Should an advance notice be required for any nonrollover time account:

(2) If so, should there be an exception for short-term time accounts; and

(3) If so, what is the appropriate cut-off?

The Board believes it is important for consumers with time accounts with long maturities to receive a notice of pending maturity, especially since a periodic statement or other reminder may not be provided. This view was supported by many commenters, although some objected to the proposed notice. Most commenters urged that any notice requirements for nonrollover time accounts be consistent with the notice requirements for automatically renewable time accounts so that a single procedure could be adopted for both categories of accounts. Thus, the rules adopted are based on the rules governing automatically renewable time accounts.

The regulation requires that for nonrollover time accounts with maturities of longer than one year (more than 365 days, or more than 366 in a leap year), institutions must provide a notice that states the maturity date of the time account and whether interest will be paid on the funds after maturity. The notice must be mailed at least 10 calendar days before maturity. The timing rule thus will accommodate whatever notice procedures an institution adopts for rollover time accounts. An institution, for example, that has a 10-day grace period for its rollover time accounts and sends advance disclosures 10 days before maturity can provide the notice for nonrollover time accounts using the same period. Of course, if the institution sends advance disclosures a full 30 days before a rollover time account matures, it may also send this notice 30 days in advance of maturity for nonrollover time accounts.

The proposed regulation did not require any advance notice for nonautomatically renewable time accounts bearing maturities of three months or less. In response to comments received and upon further analysis, the Board has increased the cut-off to maturities of one year or less. First, the notice is not mandated by the act. Second, consumers are informed at the time the account is opened when it matures and whether interest will be paid on their funds after maturity, and can be expected to remember this information for short- and intermediate-term time accounts. Third, the risk to the consumer who may forget a scheduled maturity date is not as great as it is for rollover time accounts; funds from a matured nonrollover time account will not be locked in for another term if the consumer does not act promptly after maturity. Finally, many commenters argued that an exemption for shorter-term accounts was desirable, but that three months was too short a time period. Thus, the regulation does not require any advance notice for nonautomatically renewable time accounts bearing maturities of one year or less. If consumers chose to reinvest the funds in another time account, however, they would receive a complete set of disclosures for the new account under the normal timing rules. (See discussion of § 230.4(a)(1).)

Institutions with existing nonrollover time accounts with maturities of longer than one year that mature after the mandatory compliance date must start providing notices after that date, but need not send notices prior to that time. (This rule parallels the transition rules for rollover time accounts.) For example, if an 18-month nonrollover certificate of deposit matures five days after the mandatory compliance date, an institution is not required to send a notice since this would require an institution to send a notice prior to the mandatory compliance date of the regulation. To ease compliance for institutions that wish to use a uniform timing rule of 30 days advance notice for maturing time accounts, the transition rule for nonrollover time account parallels the transition rule for rollover time accounts with maturities of more than one year. Thus, institutions need not send notices under this paragraph for accounts that mature before April 21, 1993. Nonrollover time accounts that mature after April 21, 1993, must receive notice at least 10 days in advance of the scheduled maturity date.

Section 230.6—Periodic Statement Disclosures

Paragraph (a)—General Rule

Section 268 of the act requires depository institutions to include specific information on or with each periodic statement provided to consumers. The act does not require periodic statements to be sent by an institution, but requires that *if* an institution sends a periodic statement certain information must be included. (See the definition of "periodic statement" in § 230.2(q) above.)

This requirement applies to periodic statements for existing consumer accounts as of the mandatory compliance date of the regulation, as well as to those for new accounts opened on or after that date. The disclosures required by this section must appear on either the first periodic statement sent on or after March 21, 1993, or the periodic statement sent for the first cycle that begins on or after that date. (See discussion under § 230.4(c).) This reflects the Board's recognition that some institutions may need to alter current practices to comply with requirements of the regulation (changing balance calculation methods, for example, from low balance to either daily balance or average daily balance) and such changes may not be in place until the mandatory compliance date of the regulation.

The disclosures in this section need be furnished only to the extent applicable; for example, a periodic statement for a noninterest-bearing account need not include either an interest figure or an annual percentage yield earned figure. Nor is an annual

percentage yield earned required to be disclosed on the periodic statement for an interest-bearing account when no interest is earned during the cycle.

This section has been revised from the proposal. A new paragraph (b) has been added to address how disclosures should be made on periodic statements where institutions use the average daily balance method and calculate interest on a period other than the statement period (for example, if a statement cycle is from the 16th of September to the 15th of October, but interest is calculated on a calendar month basis).

Paragraph (a)(1)—Annual percentage yield earned. The act requires that the annual percentage yield earned be included on the periodic statement. The annual percentage yield for advertising and opening account disclosures is calculated as an annualized rate that reflects the frequency of compounding. In the proposal, the Board presented and solicited comments on several options to determine what would be the most appropriate way of calculating the annual percentage yield for the periodic statement. Based on comments received and further analysis, the final rule requires that the annual percentage yield earned reflect the relation between the actual interest accrued during the statement period and the average daily balance for the same period.

The annual percentage yield earned incorporates all rate changes that occurred during the period. It also produces a single composite figure for tiered-rate accounts, demonstrating the effect of the institution's tiering method on total earnings. Thus, institutions that pay a lower interest rate on deposits up to a certain level and a higher rate only on amounts above the cut-off figure would show a lower annual percentage yield earned for a given balance above the cut-off than would institutions that pay the same higher rate for the entire balance in the account. (See appendix A's description of the two methods of tiering.) The annual percentage yield earned will not reflect any fees imposed or bonuses earned.

Some commenters favored other options discussed in the proposal. For example, several commenters supported use of a calculation method that would utilize the same general annual percentage yield calculation for the periodic statement as is used for advertising and initial disclosures (the third option described in the proposal). Commenters noted that this figure allowed consumers to compare the rate applied to the balance for the period with currently advertised rates. In addition, some commenters were concerned that consumers would be confused if annual percentage yields were calculated using different methods for periodic statements and for advertisements and account disclosures.

A small number of commenters favored requiring an annual percentage yield earned to represent a net earnings figure including the total interest paid during the period, adding cash bonuses paid, subtracting all fees imposed during the period and dividing the difference by the average daily balance for the period to obtain a percentage figure (the second option in the proposal). These commenters believed that this figure provided the most authentic yield figure.

The Board recognizes that the method chosen for the final rule will not provide a figure the consumer can use to directly verify earnings for the period if multiple interest rates are applied during the period. (The third option in the proposal would not have allowed such direct verification either unless additional detail regarding balances and accrual policies were also required.) The single figure will not show the actual rate fluctuations during the period, though any changes would be captured by the figure. The Board believes, however, that this method will most effectively communicate to consumers the appropriate information on earnings for the statement period. It will show in a single figure how well the consumer's account performed during the statement period, reflecting the true rate earned on tiered accounts, the impact of rate changes, and the effect of minimum balance requirements, while avoiding the difficulties that could be produced if fees and bonuses were factored in.

Some commenters stated they would like to include additional information about rates on the periodic statement. For example, some institutions may want to include a listing of the interest rates paid during the period, as well as other information the consumer could use to verify interest earnings for the period, such as the periodic interest rate and daily balances. Neither the act nor the final rule prohibits including additional information on or with the periodic statement. For example, the interest rates and the periodic interest rates applied during the period may be stated.

The Board solicited comment on whether the rate on the periodic statement should be identified as the "annual percentage yield earned" rather than the "annual percentage yield." Most commenters favored use of a distinct term to differentiate the figure from the "annual percentage yield" used for both advertisements and opening account disclosures, although some commenters argued for consistent terminology. The Board believes consumers benefit from a term that alerts them to the fact the figure on the periodic statement differs from an annual percentage yield shown in other disclosures. Thus, the final rule requires use of the term "annual percentage yield earned" on periodic statements.

Paragraph (a)(2)—Amount of interest. The act requires that the periodic statement disclose the amount of interest "earned" during the period. The proposed regulation would have required the periodic statement to include a dollar figure for the amount of interest that had been *paid* during the statement period. That figure would not have included accrued interest that had *not* been credited to the account during the period. Many commenters were concerned that the proposed disclosure would confuse consumers holding accounts where the statement cycle is shorter than the crediting cycle. For example, where consumers receive monthly statements on accounts that credit interest quarterly, the first two monthly statements in a quarter would not reflect either an interest amount or an annual percentage yield earned as no interest would yet be credited. The third statement would show interest earned for the three month period, artificially inflating the annual percentage yield earned. Commenters argued this approach would not provide useful information to consumers, as the yield figure would bear little resemblance to rates advertised or what is actually being earned during the period. The Board agrees with this view. Thus, the final rule requires institutions to show interest earned during the statement period, without regard to whether such interest has been credited to the account. (See the special rule in paragraph (b), however, dealing with institutions that use the average daily balance method and calculate interest on a period other than the statement period.)

The Board solicited comment on whether cash bonuses paid to the consumer during the statement period should be included in the total interest figure. The majority of commenters supported the proposed exclusion of bonuses from the interest figure, given that the definition of "interest" (§ 230.2(n)) specifically excludes bonuses. The final rule maintains this position. The value of a bonus (or of any *de minimis* consideration of $10 or less that is excluded from the definition of a bonus) can be shown separately on the statement as additional information, but it cannot be included in the total interest figure.

The Board solicited comment on whether the regulation should require use of the term "interest" for purposes of this disclosure. Based on comments received and upon further analysis, the final rule does not mandate use of the word "interest." The Board believes that the term is widely used in the industry; thus, requiring the term seems an unnecessary addition to the regulation. Also, the Board believes it may be desirable for institutions to describe more specifically the treatment of interest during the period. For example, if an institution credits interest at the end of the statement cycle, it could disclose the figure as the "interest earned," "interest paid," or "interest credited." If an institution shows interest that was earned during the statement cycle but which has not yet been credited (for instance, where it sends monthly statements credits quarterly), it may wish to alert the consumers to this fact so they do not believe they can access those funds.

Paragraph (a)(3)—Fees imposed. Section 268(3) of the act requires that the periodic statement disclose the amount of any fees or charges imposed on the account. The proposal would have required the periodic statement to include all fees of the type required to be disclosed under § 230.4(b)(4) that were imposed during the statement period. Many commenters noted the difficulty of including fees for services which the consumer paid for in cash at the time of the transaction. The final rule therefore requires that the institution disclose fees (of the type required to be disclosed under § 230.4(b)(4)) that have actually been debited from the account during the period. At the institution's option, fees that are not imposed in connection with the account, for example, fees paid for a cashier's check or for the lease of a safe deposit box, be included in the periodic statement as additional information.

The act does not specify whether the fees should be totaled or itemized. The Board discussed different methods for disclosing fees in the proposal, and proposed requiring an itemization of fees. Many commenters supported a flexible rule which would allow institutions to choose the method of disclosure. They pointed out, for example, that Regulation E permits institutions to disclose fees on the periodic statement as either a total dollar figure or by itemizing them in part or in full, at the institution's option. A number of commenters noted, however, that providing only a total dollar figure for fees imposed during the period without any explanation would provide little useful information to consumers.

The final regulation requires institutions to provide an itemization of fees by type. The Board believes that a single figure for all fees would not be as helpful to consumers as a listing of the types and amounts of fees imposed during the cycle. The more summary approach taken in Regulation E is not appropriate here where fees cover a much wider array of services than those solely relating to electronic funds transfers.

The regulation does not mandate a particular format for this disclosure. Institutions may group together fees of the same type that were imposed more than once in the period. For example, all fees imposed for writing checks during the period could be stated either as a single figure, or shown as separate items. An institution could not, however, group fees together that are not the same type—for example providing a single figure to represent monthly maintenance fees and excess activity fees. If fees are grouped, the description must make clear that the dollar figure represents more than a single fee, for example, "total of per-check fees this period." Institutions may continue to comply with the requirements of Regulation E for fees related to electronic fund transfers (for example, totaling all electronic funds transfer fees in a single figure), but must follow the provisions of this section with regard to disclosure of all other account fees.

There is no requirement to segregate the itemization of fees from the statement of account activity. Thus, institutions may integrate the fee disclosure with other account activity information reflected on the statement. The statement must provide sufficient detail to enable the consumer to identify the fee. Institutions may use a code to identify a particular fee on the periodic statement, if codes are explained either on the periodic statement or in documents accompanying the statement. At its option, the institution may also include the date the fee was debited from the account.

Many commenters requested guidance regarding disclosure of fees associated with "tied" or "bundled" accounts. For example, an institution may require the consumer to maintain a certain balance in Account A to avoid the imposition of a minimum balance fee on Account B (which, if imposed, is debited from Account B). Institutions should disclose the fees on the periodic statement for the account against which the fees are actually debited (Account B in this case).

The Board solicited comment on whether the regulation should also require the periodic statement to include a total fees figure or a net earnings figure—that is, the total interest earned less any fees imposed. Most commenters indicated these additional disclosures added little to the information provided to consumers, and presented an unnecessary burden to institutions. The final rule does not require either a total fees figure or a net earnings figure.

Paragraph(a)(4)—Length of period. The proposal closely tracked the statutory language and required that the total number of days in the statement period be given on the periodic statement. The Board solicited comment on whether providing the beginning and ending dates for the period would provide adequate information to consumers (assuming it is clear whether or not both of these days are included as part of the period).

Most commenters supported the flexibility of being able to choose the method of disclosing the days in the period. Many commenters noted that consumers need to know the beginning and ending dates for the period to determine whether a transaction occurred during the period, possibly making it a better disclosure than merely providing the number of days.

The final rule allows institutions to provide either the total number of days in the period, or the beginning and ending dates of the cycle, as long as it is clear whether or not both of these days are included in the period. For example, stating "April 1 through April 30" would clearly indicate that both April 30 are included in the period. Several commenters noted their current procedure is to provide the ending dates for both the current and the preceding cycle (for example, if a statement period begins May 1 and ends May 31, the disclosure would be that the preceding statement ended April 30 and the current statement ends May 31). This method would also be acceptable, since the consumer could readily determine the number of days in the period.

Paragraph (b)—Special Rule for Average Daily Balance Method

In response to requests for guidance, the final regulation contains a new paragraph addressing how the disclosures should be made on periodic statements if interest is determined by using the average daily balance method and is calculated based on a period other than the statement period. Commenters noted that in most cases interest is calculated and credited for a period that exactly coincides with the

period covered by the statement; in such cases, the calculation and disclosures are straightforward. In some cases, however, interest is calculated for a period that differs from the period covered by the statement. For example, interest may be calculated for a calendar month, whereas the statement may cover a period from the 16th of one month to the 15th of the next month. A similar case exists where the statement is provided covering a calendar month but interest is calculated on a quarterly basis. If an institution uses the daily balance method, the Board believes disclosures must be made for the statement period, since interest is earned for each day of the period, even though it may be credited on a date beyond the last day of the statement period. However, commenters that use the average daily balance method to compute interest asked how to disclose the amount of interest earned and the annual percentage yield earned if, for example, a statement period covers April 16th to May 15th, but interest is calculated on a calendar month basis.

This paragraph (and appendix A, part II) provides a special rule in these cases: the amount of interest earned for the interest calculation period and the annual percentage yield earned based on the average daily balance for that period shall be disclosed on the statement for the period in which the interest calculation period ends. For example, assume an institution uses the average daily balance method based on a calendar month period, and that $5.25 interest was earned during April, $6.00 interest was earned during May, and the institution sends a statement for the period April 16 through May 15. That statement would disclose $5.25 as the interest earned and an annual percentage yield earned based on that interest and the average daily balance in the account during the month of April. If an institution uses this alternate rule, the length of the interest calculation period must be disclosed in addition to the length of the statement period. For example, a statement could disclose the statement period of April 16 through May 15 and further state that "the interest earned and the annual percentage yield earned are based on your average daily balance for the period April 1 through April 30."

This special rule applies only if the average daily balance on which the interest is calculated is known by the end of the statement cycle. For example, an institution that sends a statement each calendar month for an account and calculates interest based on the average daily balance method for a calendar month, but credits interest quarterly, would use the rule in this paragraph. In such a case, interest earned in each of the three months would be shown on three succeeding monthly statements (since an average daily balance figure is used to calculate interest each monthly statement period); the statement for the third month of the quarter may, but is not required to, indicate the interest credited for the quarter, in addition to the interest earned during the third month. If an institution calculates interest on an average daily balance for the quarter, however, an interest figure cannot be stated on the monthly statements for either of the first two months of the period since no average daily balance is used to calculate interest for those times. Consequently, no annual percentage yield earned and no interest earned figures would be disclosed on the statements for the first two months of the quarter. In such a case, the interest earned and the annual percentage yield earned provided on the third monthly statement would be based on the entire quarterly period. (Examples have been added to appendix A, part II demonstrating these rules.)

Section 230.7—Payment of Interest

Paragraph (a)—Permissible Methods

Paragraph (a)(1)—Balance on which interest is calculated. Section 267(a) of the act provides that interest on interest-bearing accounts shall be calculated by institutions "on the *full amount of principal in the account for each day* of the stated calculation period" at the rate disclosed (emphasis added). The legislative history states that the provision is intended to prohibit institutions from using certain balance computation methods, such as the "low balance" or "investable balance" method of computing interest. Although a literal reading of this language might appear to require institutions to calculate interest by using the daily balance calculation method (also known as the day-in-day-out method or day-of-deposit-to-day-of-withdrawal method), the legislative history confirms that the Congress considered the average daily balance method an acceptable alternative to the daily balance method. The Board proposed to allow both methods, and, based on further analysis and review of the comment letters, is adopting this approach in the final rule.

The overwhelming majority of commenters urged the Board to permit institutions to use the average daily balance method as an alternative to the daily balance method. The Board believes permitting institutions to use either the daily balance method or the average daily balance method is consistent with the purpose of the legislation, which is to require that consumers be paid interest on the full amount of principal in the account each day. In addition, the act requires disclosure of the balance computation method, which would be unnecessary if only one method were allowed.

Both methods require institutions to compute interest by applying a periodic rate to the full amount of principal in the account each day. Assuming the same compounding and crediting frequency, interest calculated under either method would be identical in an account with little or no account activity in the period. As explained in detail in the supplementary information to proposed § 230.7(a), in most cases, even where there is significant account activity, both methods will produce the same or substantially the same amount of interest. In some instances the daily balance method produces a slightly higher return, and in other situations the average daily balance method produces a slightly higher return. As described in the proposal, in tiered-rate accounts, the two methods can produce more significant differences in interest, depending on account activity—in particular, depending on whether the average daily balance falls above or below the break point in the tiers. In all cases, however, under the annual percentage yield earned calculation for a periodic statement, any differences in these methods would be captured.

The final regulation permits institutions to use either the daily balance or the average daily balance method, for several reasons. First, in most cases the two methods produce the same or a substantially similar return. Second, where the results differ, neither one consistently produces a higher return. Third, the annual percentage yield earned calculation for the periodic statement will capture any differences between these methods. Fourth, institutions will be required to disclose the method they use under § 230.4(b) so that consumers who prefer one method over the other will have the necessary information on which to base their choices. Fifth, the legislative history accompanying the legislation contemplates the use of either method. Finally, requiring institutions to use the daily balance method could impose significant costs on institutions that would have to change from their current use of the average daily balance method without producing any real benefit to consumers.

"Collected" and "ledger" balances. Many commenters asked whether the

regulation would permit institutions to accrue interest (whichever balance method is used) by using a "collected" balance method, or whether a "ledger" balance method must be used. The Board believes the act does not prohibit use of a "collected" balance method of accruing interest. (Section 267(c) of the act provides that institutions must begin to accrue interest on deposits no later than the business day set forth in section 606 of the EFAA.) Thus, institutions may begin accruing interest when the funds are deposited into the account or a later date as provided by the EFAA and Regulation CC. (See § 230.4(b)(3)(iii) which requires a disclosure of this policy.)

Use of 365-day basis and leap year. In the proposal the Board stated that the act requires institutions to pay interest calculated on each day funds remain on deposit. For example, for a one-year time account, interest must be paid on a 365-day basis. Since interest must be paid each day funds remain on deposit, the Board believes a daily rate of at least 1/365 of the interest rate must be applied to the balance. A footnote has been added to this section to reflect this. Institutions may, however, apply a daily periodic rate that is greater than 1/365 of the interest rate. For example, an institution may use a daily periodic rate of 1/360 of the interest rate, as long as it is applied 365 days a year.

Some commenters inquired whether they could continue to compute interest using a "360/360" basis (that is, using a periodic rate of 1/360th of the interest rate and applying that figure to only 360 days in a one-year account). They stated that currently they use this technique to enable them to send out uniform monthly interest payments on some accounts, such as certificates of deposit. The Board believes this practice, which pays interest for only 360 days in a year and not 365 days, is not permissible because it fails to apply the disclosed rate each day of the year.

The Board solicited comment on whether institutions should be permitted to use a periodic rate of 1/365 of the annual rate and a 365-day basis in leap years that have 366 days. Numerous commenters urged the Board to adopt this approach. They argued that requiring institutions to change their systems to 1/366 of the annual rate for those accounts in which February 29 will occur would require significant modification at great expense for very little practical difference. Other commenters urged the Board to permit institutions to use a 366-day basis when appropriate. The footnote to this section clarifies that institutions are permitted to apply 1/365 of the interest rate for 365 days in a leap year, in light of the concerns raised. In addition, institutions are permitted to apply a periodic rate of 1/366 (or 1/365) of the interest rate for 366 days in a leap year, when an "extra" day of interest will be paid for the account.

Commenters raised several questions about the scope of § 230.7(a). A number of commenters asked whether § 230.7 requires institutions to pay interest during any grace period offered by an institution for an automatically renewable time account if the consumer decides during the grace period not to roll over the funds. Commenters also asked whether, for nonrollover time accounts, institutions must pay interest after the account has matured.

Institutions are not required to pay interest in either of these circumstances. The Board believes that the act does not require institutions to pay interest after the existing account relationship has ended. Thus, if a consumer with an automatically renewable time account chooses *not* to renew the deposit, the institution may pay interest for a period of time after maturity even though the time account is not renewed, or the institution may consider the account to be noninterest-bearing following maturity. Similarly, institutions may, but are not required to, pay interest following the maturity of a time account that does not automatically renew. (See footnote 1 of § 217.3 in the Board's Regulation Q which permits institutions to pay interest for up to 10 calendar days past the maturity of a time deposit if the time deposit is renewed within 10 calendar days of maturity.)

The Board also believes that institutions are not required to pay interest on any principal or interest left in an account after an account is closed. Several commenters noted that consumers may "close out" an account by mail but unintentionally leave in a small amount of funds. The Board does not believe institutions must continue to pay interest on any such amount if the account relationship has ended. Commenters also requested that the Board state that institutions are not required to send any such remaining balance to the consumer. Whether the institution must do so is a question that must be determined by reference to state or other law. This regulation does not address that issue.

Paragraph (a)(2)—Determination of minimum balance to earn interest. The Board believes the Congress did not intend for institutions to be barred from establishing minimum balance requirements that must be met for the consumer to earn interest, or to earn a specified rate for tiered balance accounts. The act expressly requires a disclosure of any minimum balance required to earn interest. This provision would be unnecessary if institutions were not permitted to establish minimum balance levels to earn interest.

Under the final regulation, an institution using a daily balance method may choose to pay interest on an account for only those days a minimum balance is maintained. (Similarly, an institution using an average daily balance method may choose to pay interest for the period only if a specified average daily balance for the period is met.) If this practice were not permitted, the Board believes significant and fundamental pricing changes would be made to accounts, many of which could be adverse to the interests of consumers. For example, tiered-rate and high minimum balance accounts that typically pay a higher rate of interest might not be as available to consumers. Therefore, the regulation permits an institution that uses a daily balance method to provide that it will not pay interest on the account for those days the balance drops below the required daily minimum balance. (Similarly, a minimum average daily balance may be established for institutions using that method.)

On the other hand, the Board does not believe that the act permits an institution to provide that the consumer does not earn any interest for a given period unless the consumer maintains a minimum balance each day of the entire period. Most, though not all, commenters agreed with this position. The Board believes section 267(a) of the act prohibits use of this "low balance" type of method to determine if a consumer has met a minimum balance requirement to earn interest.[1] For example, an institution may not provide that a consumer will earn a 5.00% interest rate only if the consumer maintains a minimum balance of $500 for each day of a specified period or cycle. Such a practice, in effect, uses a low balance computation method to calculate whether interest is earned on an account at all for the whole period. Permitting such a practice would enable an institution to refuse to pay interest even if a consumer maintained a $10,000 balance for 29 days in a cycle, but

[1] The discussion of this provision addresses only the payment of interest as it relates to the minimum balance requirement. The supplementary information accompanying § 230.4(b)(4) discusses the fact that institutions are not so limited regarding the assessment of fees and minimum balance requirements.

permitted the balance to drop below $500 for one day in the same cycle.

Similarly, institutions may not refuse to pay interest on a portion of a balance once a consumer has met any required minimum balance. If an institution sets its minimum daily balance requirement to earn interest, for example, at $300 and a consumer deposits $500, the institution must pay the stated interest rate on the full $500, and may not pay interest only on $200 of that deposit. The Board believes this practice is contrary to the statutory requirement and the intent of the Congress to require payment of interest at the disclosed rate on the *full amount* of principal in the account each day.

A related issue arises regarding tiered-rate accounts that use a daily balance method to determine whether a minimum balance requirement has been met. For example, assume an institution pays and discloses a 5.00% interest rate on balances below $5,000, and a 6.00% interest rate on balances of $5,000 and above. The institution may not pay only 5.00% for the entire cycle if the balance dropped below $5,000 for a few days during the cycle—for example, if a consumer maintained a $10,000 balance for 29 days in a cycle, but permitted the balance to drop to $4,999 for two days. The Board does not believe the act permits the institution to pay only 5.00% on $10,000 for 29 days, since the full amount of principal in the account for 29 days was actually $10,000 and should earn the stated 6.00% rate.

The Board solicited comment on a number of technical points. The Board asked whether institutions should be required to use a daily balance method to determine whether a minimum balance requirement to earn interest has been met, or may an average daily balance method be used instead. Comment also was requested on whether institutions should be permitted to use both a daily balance and an average daily balance measurement in determining whether a consumer has met the minimum balance requirement to earn interest. For example, the Board asked whether an institution should be permitted to apply both a $500 daily balance and a $700 average daily balance requirement to determine whether interest is paid on an account for a particular day. The Board also asked whether institutions should be permitted to determine the balance on which they calculate interest using one method and establish the minimum balance using a different method. For example, comment was requested on whether an institution should be permitted to use the daily balance method to compute interest but to require a consumer to meet a minimum balance by averaging a month's daily balances.

Commenters expressed a wide variety of views on these questions. Many commenters urged the Board to adopt a simple, standardized rule. For example, a number of commenters requested that the Board require institutions that calculate interest using the daily balance method to use the same method to determine the minimum balance needed to earn interest. Commenters felt such an approach would provide simple and clear rules, and consumers would be able to better understand such an approach.

Other commenters urged the Board to permit greater flexibility in the final regulation, and permit any combination of methods. Commenters stated that this was beneficial to institutions and fair to consumers since the methods used would be disclosed. These commenters were concerned with the ability of institutions to structure accounts with the greatest flexibility possible.

The Board believes that the act places limits on the use of certain minimum balance methods. As noted in the proposal, the Board does not believe an institution that uses an average daily balance method to determine the balance needed to earn interest is permitted to refuse to pay interest on the average balance if the consumer fails to maintain a daily balance of, for example, $500 for each day of the cycle. This is similar to using a low balance method of computing interest.

The Board believes there are significant benefits to requiring institutions to use the same balance method to calculate interest and to determine the balance that must be met to earn interest. Consumers would find the disclosures easier to understand, and institutions would have a clear and simple rule that minimizes potential compliance errors and civil liability concerns.

On the other hand, the Board recognizes the advantages of permitting institutions to use combinations of the two methods when the combination benefits consumers. This would provide more choices to consumers and more flexibility to institutions in structuring accounts. Many commenters requested that the final regulation permit institutions to provide that interest is earned on an account if the consumer meets either a daily balance or average daily balance requirement. For example, institutions that use a daily balance method for interest calculation asked to be permitted to offer accounts that pay interest if the consumer maintains a $500 daily balance or maintains a $400 (or $600) average daily balance amount for a specified time period. They argued such an approach would always benefit the consumer. While this approach adds an additional level of complexity to the regulation, the Board believes this approach provides benefits to consumers and greater flexibility to institutions and should be adopted.

Thus, this section of the final regulation provides that an institution must use the same method to determine any minimum balance required to earn interest as it uses to determine the balance on which interest is calculated. The regulation also provides that an institution may use an additional method to determine the minimum balance to earn interest, as long as that second method is unequivocally beneficial to the consumer. This means an institution that uses a daily balance method to compute interest could require a consumer to meet either a specific daily minimum balance to earn interest or a specific average daily balance requirement to earn interest. (Similarly, an institution that uses an average daily balance method could require the consumer to meet a specific average daily balance requirement or a specific daily balance requirement.) Thus, an institution using a daily balance method could choose to pay interest only for those days the daily balance was $500 or more. In addition, the institution could agree to pay interest to the consumer for those days a consumer did not maintain a $500 daily balance, but, for example, maintained an average daily balance for a month of $400 (or $600).

However, institutions are not permitted under the regulation to require consumers to maintain both a daily minimum balance and an average daily balance to earn interest. For example, the regulation does not permit institutions to pay interest (whether they compute it using a daily balance or average daily balance method of accruing interest) only if the consumer, for example, maintains a $500 daily balance and a $400 (or $600) average daily balance. The Board believes requiring consumers to meet both requirements to earn interest is contrary to the requirement to pay interest on the full balance in the account, since an institution, in effect, would be using a low balance method to determine if interest is paid.

Paragraph (b)—Compounding and Crediting Policies

The substance of this paragraph of the regulation is unchanged from the proposal, though the Board has revised one interpretation about crediting policies, as discussed below. This section does not mandate the frequency of any compounding. Thus institutions may compound bi-annually, annually, quarterly, monthly, daily, continuously, or on any other basis. The compounding frequency is required to be disclosed under § 230.4(b)(2) and is factored into the computation of the annual percentage yield. (See the discussion of the annual percentage yield in the supplementary information accompanying appendix A.)

Section 230.7 also does not mandate a specific crediting policy. Thus, institutions may credit interest earned on the account on an annual, semi-annual, quarterly, monthly, daily or other basis. The institution's crediting policy must be disclosed under § 230.4(b)(2). An institution may credit or post interest to the account at any frequency, thus establishing the intervals at which the consumer can withdraw such interest.

In the proposal, the Board stated that establishing crediting policies does not permit an institution to treat accrued but uncredited interest as unearned. The proposal stated that because the act and proposed regulation require that interest accrue based on the full balance in the account each day, the consumer's underlying right to such interest cannot be altered. A number of commenters expressed concerns about this interpretation, and asked the Board to reconsider its interpretation, particularly for accounts that are closed by the consumer prior to a date accrued interest is credited to an account. They believed the Board was interpreting the statutory provision too broadly and stated the Board should give effect to section 264(c)(9) of the act.

Based on comments received and upon further analysis, the Board believes the duty to pay interest on the full balance in the account does not require institutions to pay interest that has accrued but not been credited if the account is closed by the consumer between crediting dates. (See paragraph (a)(1) of this section.) Further, as discussed in § 23.4(b)(2)(ii), the Board believes that section 264(c)(9) of the act (requiring institutions to state if accrued but uncredited interest will not be paid in the event funds are withdrawn from the account), if applied narrowly, is consistent with the duty to pay interest on the full balance of the account. Thus, the Board is revising its position, and believes that institutions may reserve the right not to pay accrued but uncredited interest for an account if a consumer closes the account prior to the time accrued interest is credited to the account. However, the Board believes that institutions must pay all accrued interest to consumers even if some funds are withdrawn prior to the crediting date, as long as the consumer does not close the account. Otherwise, the effect would be substantially the same as permitting institutions to pay interest based on the low balance method, a result clearly unintended by the Congress. Although institutions may not fail to pay accrued interest on withdrawn funds if the account remains open, institutions need not post or credit the accrued interest until the established posting or crediting date, nor must they permit the consumer to withdraw interest that is earned but not yet credited. If the consumer withdraws funds before interest is credited (but does not close the account), the institution may delay payment of the accrued interest until the crediting date, but may not refuse to pay the consumer the accrued interest. This provision, of course, does not require an institution to pay interest for those days the consumer fails to meet a minimum balance requirement.

Paragraph (c)—Date Interest Begins to Accrue

Section 267(c) of the act requires that institutions must begin to accrue interest for all accounts no later than the business day specified in section 606 of the EFAA (12 U.S.C. 4005), subject to subsections 606(b) and 606(c). Thus, the Truth in Savings Act provides that the accrual of interest rules in the EFAA apply to nontransaction accounts, such as certificates of deposit, as well as to transaction accounts covered by the EFAA. The EFAA and the Board's implementing Regulation CC (12 CFR part 229) generally require an institution to begin accruing interest when the institution receives credit. The Board believes a consistent rule is essential for determining the principal balance on which interest accrues. The final rule, as did the proposal, therefore requires institutions to use the methods set forth in Regulation CC for determining the principal balance. In addition, institutions should rely on Regulation CC for determining when a deposit (for example, at an ATM) is received. If an institution accrues interest on funds represented by a deposited check that is later returned due to insufficient funds on deposit, or for another reason, the institution would not be required to pay interest for the time period the check was outstanding.

While the EFAA establishes the time institutions must begin to accrue interest, because of the general rule in section 267(a) of the act that interest must be computed on the full amount of principal in the account for each day, paragraph (c) of this section also provides that institutions must accrue interest on funds until funds are withdrawn from the account. Thus, if a check written by the consumer on an account is debited from the account by the account-holding institution on a Wednesday, the institution must accrue interest on those funds on deposit through Tuesday. (Because the check is debited on Wednesday, the balance in the account that day has been reduced. Thus, the institution need not pay interest for Wednesday.)

Section 230.8—Advertising

This section of the regulation incorporates the advertising provisions of section 263 of the act. While the act's disclosure rules apply to accounts of *all* depository institutions, section 263(a) of the act's advertising provisions dealing with general disclosure rules is phrased in terms of accounts offered by insured depository institutions. (Section 263(b) and (c) of the advertising provisions, which address special rules for broadcast media and misleading advertisements, are not limited to insured depository institutions.) The Board's final rule applies the advertising provisions to all depository institutions, whether insured or not. The Board believes that the act's purposes are furthered if advertisements for deposit accounts at all depository institutions are covered by the same rules.

As addressed in §§ 230.2(a) and 230.2(k), the advertising rules apply to deposit brokers, in addition to depository institutions. Thus, if a broker places an advertisement that offers to consumers an interest in an account at an institution, the advertisement is covered by this section, even if the account is held by or on behalf of the broker. Of course, this section also covers any advertisement placed by a broker in which the account at the institution will be held directly by the consumer.

The Board requested comment on whether certain provisions in the Board's Regulation Q (12 CFR part 217) dealing with advertising rules should be included in this regulation and removed from Regulation Q. Commenters strongly endorsed the idea of consolidating the requirements of these two regulations. Based on comments received and upon

further analysis, the Board is amending Regulation Q to eliminate its advertising provisions, effective on the mandatory compliance date of this regulation. (See Docket R-0775 elsewhere in today's **Federal Register**.) Institutions that begin compliance with this regulation prior to the mandatory compliance date may rely solely on compliance with the advertising rules of this regulation.

Paragraph (a)—Misleading or Inaccurate Advertisements

The act prohibits institutions from making misleading or inaccurate advertisements. The proposal solicited comment on whether examples of what constitute "misleading or inaccurate statements" in an advertisement should be provided with the final rule. Some commenters felt examples would be helpful, some felt otherwise, but few offered any specific examples. As discussed below, the Board is providing one example of a misleading advertisement—stating the term "profit" in conjunction with a deposit account.

Use of the term "profit" prohibited. Section 217.6(f) of the Board's Regulation Q and the deposit account advertising rules of the other federal financial regulatory agencies for some time have prohibited use of the term "profit" when advertisements refer to interest paid on deposit accounts. The Board requested comment in the proposed regulation on whether institutions should be permitted to refer to interest paid on an account as "profit," or if the use of the term in advertisements could mislead customers. The overwhelming majority of commenters agreed that the use of this term would mislead consumers, since the term implies a return on an investment—something typically associated with nondepository investments. Commenters recommended that the Board's final rule retain the prohibition. The final rule retains this prohibition, as the Board believes such a reference would be misleading.

Advertising "free" accounts. Section 263(c) of the act prohibits an institution from advertising an account as a "free" or "no-cost" account if: (1) A regular service or transaction fee may be imposed; (2) a fee may be imposed if any minimum balance requirement is not met; or (3) a fee is imposed if the consumer exceeds a specified number of transactions. The final regulation reflects these rules, though it provides a different organizational approach from that in the act.

Under the final rule, institutions are not permitted to refer to or describe any account as "free" or "no cost" (or contain a similar term) if any "maintenance or activity" fee might be imposed on the account. In response to commenters who pointed out that the act limits the prohibition to "regular" transaction or service fees, the final rule limits the scope of a maintenance or activity fee to such charges as, for example, periodic service charges and fees imposed to deposit, withdraw or transfer funds (including per check charges and fees to use the institution's ATMs). A maintenance fee also includes fees imposed if a minimum balance requirement is not met or if a transaction limit is exceeded. A maintenance or activity fee does not include fees imposed by a third party to print checks for an account; stop payment fees; fees for copies of checks; fees for checks returned for insufficient funds; or fees unrelated to the account such as a fee for purchasing a cashier's check or traveler's checks.

Many commenters expressed concerns that the Board's rule, as proposed, would unduly restrict the ability of depository institutions to advertise useful cost information to consumers because some maintenance or activity fees could be imposed. The Board is providing greater flexibility in response to concerns raised. The act prohibits a reference to an "account" as free. Under the final regulation, institutions may refer to a specific service as "free" or "no cost" (or use words of similar meaning). For example, institutions that offer free transactions at their ATMs could advertise that fact. If an account or an account service is free only for a limited time—for example, for the first year that an account is open—this limitation must be stated. The Board believes this approach reflects the requirement of the act, yet allows institutions to provide accurate and useful cost information to consumers about account features or services.

Potential loss of principal. Although the issue is not addressed in the act, the Board's proposed rule contained disclosure requirements for advertisements regarding deposits that involve the risk of loss of principal, such as those denominated in a foreign currency. As discussed in the supplementary information for § 230.4(b), the Board believes that such information is important, but that it appears the industry currently alerts consumers to the risks associated with such accounts. Thus, the final rule does not require the additional advertising disclosure.

Paragraph (b)—Permissible Rates

Section 263(a) of the act provides that a reference to a specific interest rate, yield, or rate of earnings in an advertisement triggers a duty to state certain additional information, including the annual percentage yield. The final rule, like the proposed regulation, requires that if any rate or yield is stated it must be the "annual percentage yield," using that term.

Except for the interest rate, no other rate or yield (such as an "average" or "aggregate" percentage yield) may be included in an advertisement. The Board believes that allowing institutions to state such other rates or yields would conflict with the act's stated purpose of providing uniform disclosures to enable consumers to compare accounts. Also, the Board is concerned that permitting other rates to be stated would result in advertisements with a confusing array of terms and numbers.

The Board's final rule allows the "interest rate," using that term, to appear in conjunction with (but not more conspicuously than) the annual percentage yield. In a minor change to the proposal (addition of the words "to which it relates"), the final rule makes clear that if an interest rate is stated it must be the one that corresponds to the particular annual percentage yield provided.

Special rules for tiered-rate accounts. If an institution states an annual percentage yield in an advertisement for a tiered-rate account, it must state all of the annual percentage yields for each tier, including those required to be shown as a range, as well as the corresponding minimum balance requirements. (See appendix A for annual percentage yield calculations for tiered-rate accounts.) If interest rates are stated, each interest rate must appear in conjunction with the applicable annual percentage yield.

For example, assume an institution pays a stated interest rate only on that portion of the balance within the following specified balance levels (that is, Tiering Method B described in appendix A), and compounds interest daily:

Interest rate (percent)	Deposit balance required to earn rate
5.25	Up to but not exceeding $2,500.
5.50	Above $2,500 but not exceeding $15,000.
5.75	Above $15,000 but not exceeding $100,000.

Computing the figures in accordance with appendix A, the institution would have to state the following annual percentage yields in the advertisements:

Annual percentage yield (percent)	Balance required
5.39	Up to but not exceeding $2,500.
5.39 to 5.61	Above $2,500 but not exceeding $15,000.
5.61 to 5.87	Above $15,000 but not exceeding $100,000.

Abbreviations. The Board solicited comment on whether institutions should be permitted to use the abbreviation "APY" in advertisements—especially given the space and time constraints typically involved in advertisements. Many commenters felt that abbreviations of both the annual percentage yield and the interest rate should be allowed.

The Board does not believe consumers will be familiar with the abbreviation "APY" in advertisements, without additional explanation. The Board recognizes, however, that printing or stating the full term "annual percentage yield" every time such a rate is provided in an advertisement could restrict the use of certain types of media or impose significant costs, particularly when advertising multiple accounts.

The regulation as adopted permits institutions to abbreviate the annual percentage yield as "APY" *if* the term is printed out or stated in full at least once in an advertisement. For example, if an advertisement states "we offer a 5.25%Annual Percentage Yield (APY)," it may refer to that rate as the "APY" elsewhere in the advertisement.

The final rule does not permit an abbreviation of "interest rate." Since institutions are not required to provide this rate in advertisements, the Board does not believe special rules for use of abbreviations are needed. In addition, the terminology has been shortened from "simple interest rate," as proposed, to "interest rate," which the Board believes will diminish concerns about using the full term.

Paragraph (c)—When Additional Disclosures Are Required

Section 263(a) of the act requires additional information to be provided if the advertisement refers to a specific rate of interest, yield, or rate of earnings. The act also imposes special format rules for tiered-rate accounts. As in the proposed rule, the final regulation organizes the rules in a different manner than contained in the act.

There is no requirement that deposit account advertisements state an annual percentage yield figure (unless a bonus is stated). However, the regulation provides that a reference to an annual percentage yield (or a bonus) "triggers" certain additional advertising disclosures. If a trigger term is stated, the advertisement must provide the disclosures listed in paragraph (c) of this section in a clear and conspicuous manner. The Board solicited comment on whether an institution stating other information in advertisements—such as "one, three, and five year CDs available" or "high rates available"—should trigger the duty to state the other terms of the account. Commenters stated that these types of statements should not be considered to be triggering terms, due to the lack of specific information regarding applicable rates. The Board agrees. The Board also requested comment on whether a reference to a rate such as "we pay the rate available for 90-day U.S. Treasury bills" is so closely akin to stating a specific rate that the advertising disclosures should be triggered. Commenters were nearly equally divided. Based on comments received and upon further analysis, the Board believes the better approach treats such a statement as a trigger term only when a specific margin also is stated. Thus, a reference to a specific index which is easily determinable and the margin is so closely akin to stating a rate that advertising disclosures are required.

Paragraph (c)(1)—Variable rates. The final regulation requires institutions that advertise variable-rate accounts to state that the rate may change after the account is opened. Although the act does not expressly require the statement, section 265(2) authorizes the Board to prescribe modifications for advertising rules relating to the annual percentage yield on variable-rate accounts. Thus, the Board proposed that a statement be required for variable-rate accounts advising consumers that the rate may change after the account is opened. Commenters generally agreed that such a statement would be appropriate and it is incorporated in the final regulation.

Paragraph (c)(2)—Time annual percentage yield is offered. The act and final regulation require that advertisements that state the annual percentage yield also state the period during which accounts with that annual percentage yield will be offered. For example, if an institution only guarantees a rate for a week, its advertisement might state "this annual percentage yield is available for accounts opened from June 1 through June 7." If an advertisement does not indicate a date through which the institution guarantees a specific rate, it must state that the rate is currently offered "as of" a specified recent date.

Paragraph (c)(3)—Minimum balance. The act requires that advertisements contain a statement of the applicable minimum account balance requirements to obtain the advertised annual percentage yields. Further, in the case of tiered-rate accounts, the regulation tracks the specific statutory requirement that each annual percentage yield and the associated minimum balance must be in close proximity and have equal prominence. The final rule follows the act, but in response to comments received, is revised slightly from the proposal for clarity, without any change in substance.

Paragraph (c)(4)—Minimum opening deposit. For clarity, the heading of the paragraph has been revised slightly (adding the word "opening") without any change in substance of the paragraph itself.

Paragraph (c)(5)—Effect of fees. The heading of the paragraph has been revised slightly (adding the words "effect of") to better reflect its content. The act requires deposit account advertisements to contain a statement that "fees or other conditions" could reduce the "yield" on the account. As in the proposed rule, the final regulation uses the term "earnings" rather than yield. The Board believes the term "earnings" more accurately conveys the impact of fees on the account, since the annual percentage yield does not include fees. Virtually no comments were received on the Board's proposal to limit the scope of the disclosure requirement to the imposition of maintenance and activity fees, so it is adopted as proposed. (See paragraph (a) of this section discussing "free" accounts.) Thus, for example, the statement would appear on advertisements for interest-bearing transaction accounts that impose a monthly service charge, a per-check charge, or a fee if a minimum balance is not maintained. However, if the only fees imposed on the account were fees other than a maintenance or activity fee (for example, a stop payment fee or a fee for a check returned for insufficient funds), the statement would not be required.

In response to comments solicited on the issue, the Board has determined that the phrase "or other conditions" should not be retained as part of this notice, since it appears that the "other conditions" that affect earnings are already covered by other parts of the advertising rules (for example, minimum balance and time requirements).

Paragraph (c)(6)—Features of time accounts. Paragraph (c)(6) has been revised from the proposal to group

together the rules dealing with time accounts. The final rule reflects the deletion of one proposed requirement, which dealt with time accounts with stated maturities of less than one year. The proposal required such advertisements to include a statement that the disclosed annual percentage yield assumes all funds will be on deposit for a full year at the initial interest rate. Many commenters felt that this statement is unnecessary. They argued that the assumption is implicit in the concept of an *annual* percentage yield. They also pointed out that providing such a statement for a time account but not, for example, a NOW account, could raise questions about the basis of the annual percentage yield on the latter. Given these concerns and the fact that the statement is not expressly required by the act, the Board is not adopting the proposed rule.

Paragraph (c)(6)(i)—Time requirements. The act requires that advertisements state any time requirement necessary to earn the advertised yield. Commenters agreed with the Board's proposal to limit this provision to time accounts—since time requirements to obtain a specific annual percentage yield are typical only of such accounts. The wording has been revised and simplified from the proposal to state that this provision requires a disclosure of the term of the time account. Thus, if an institution states an annual percentage yield in an advertisement for a one-year certificate of deposit, it must state that time period.

The proposal also required advertisements to state any lower annual percentage yield that would have been earned if funds are withdrawn prior to meeting the minimum time requirement. This provision is currently required by the Board's Regulation Q. Many commenters noted that the requirement would add greater complexity to the advertising rules required by the act, and urged the Board not to incorporate this rule. The Board has not added this provision to the regulation.

The Board also solicited comment on whether to incorporate the current rule contained in Regulation Q (12 CFR 217.6(d)) that addresses deposits with time requirements greater than one year. That rule requires that an advertisement must state such a time requirement in equal prominence to the interest rate, along with any lower interest rate that will apply if funds are withdrawn prior to maturity. The Board has not incorporated this requirement in the regulation. The Board believes that consumers are adequately protected when institutions clearly and conspicuously state any time requirement for an annual percentage yield; thus, drawing special attention to a time requirement in such cases is unnecessary.

Paragraph (c)(6)(ii)—Early withdrawal penalties. The act requires that advertisements include a statement that an interest penalty will be imposed for early withdrawal. The act is not limited to time accounts, and the Board requested comment on whether this statement should be required only for time accounts. Most commenters felt it should be limited to time accounts. However, some commenters felt that consumers should be alerted to the possibility of penalties for an early withdrawal from a non-time account, such as when a bonus is "reclaimed" if funds are withdrawn before an agreed-upon date, or a fee is assessed if an account is closed within 30 days of account opening. On balance, the Board believes that the early withdrawal penalty provisions should be limited to time accounts. Information on bonuses and fees is already provided pursuant to other advertising provisions; furthermore, consumers will get additional, more detailed information about bonuses and fees when they open accounts.

The regulation has been revised to refer to whether a penalty "may or will" be imposed for early withdrawal. The change responds to comments from institutions that impose early withdrawal penalties on a case-by-case basis, and permits institutions to disclose the possibility—rather than the certainty—of such a penalty. Thus, institutions may state they "may" impose a penalty if that more accurately describes the account they are offering.

The terminology referring to an early withdrawal penalty is similar to that found in the act, but does not include the word "interest" or the word "substantial." Although both terms are required in § 217.6(e) of the Board's Regulation Q, commenters pointed out that, due to recent changes in the Board's Regulation D (12 CFR part 204), penalties no longer need be "substantial." Likewise, commenters were generally in agreement that the term "interest" should not be used, given the possibility of a forfeiture of principal (for example, if funds are withdrawn a few days after an account is opened.)

Paragraph (d)—Bonuses

Although the act does not expressly require the bonus disclosures found in the regulation, the Board believes the additional information is consistent with the act's purpose to provide uniform disclosures to assist in comparing accounts, particularly when "earnings" are being advertised. Commenters were divided on the issue of whether the statement of a bonus should trigger the annual percentage yield and the other disclosures indicated. Many felt, as the Board does, that consumers may be misled if full information is included in advertisements about interest earnings while bonus "earnings" are not explained.

As in the proposal, the final regulation treats bonuses as a trigger term. However, because the definition of bonus has been revised in the final rule (see § 230.2(f)), the advertising disclosures are not "triggered" unless the consumer receives something worth over $10 for a year. This will permit institutions to offer and advertise merchandise of a nominal value without triggering the duty to state other information.

If a bonus is advertised, institutions must state any minimum balance that must be deposited initially or maintained to obtain the bonus, any time requirement and when the bonus will be paid or provided to the consumer, so that an accurate sense of the feature is conveyed. Additionally, the advertisement must state the annual percentage yield and other applicable disclosures required by paragraph (c) of this section. If no interest is paid on the account, no rate information need be stated in the advertisement. If minimum balance and time requirements for the bonus are the same as those otherwise required to be stated, the disclosures may be combined.

Paragraph (e)—Exemption for Certain Advertisements

Section 263(b) of the act authorizes the Board, if it finds the disclosures to be unnecessarily burdensome, to exempt "broadcast and electronic media and outdoor advertising" from stating any initial deposit requirement or stating that fees or other conditions could reduce the return. The Board solicited comment on whether such an exemption should be made, and, if so, whether these disclosures would place an unnecessary burden on depository institutions. The Board also solicited comment on whether there were comparable situations (such as "lobby boards" within depository institutions) that should be exempted from some of the advertising provisions and whether other disclosures could be omitted.

Virtually all commenters expressed concern that the act's exemptions were too limited. Commenters stated that

without a further relaxation of the advertising rules, institutions would be discouraged from advertising products via broadcast and electronic media, outdoor advertising, telephone response machines, and lobby boards, a result they argued was unintended by the Congress and detrimental to consumers. Many commenters noted that presenting all the required terms on broadcast media, for example, would involve significant costs that, in addition to the potential for civil liability to account holders for violations of the advertising rules, imposed a substantial burden institutions might choose to avoid. Further, commenters argued that advertisements that convey so much detail in a limited time or space are difficult to comprehend, and, thus, do not further the Congressional purpose of helping consumers use information in advertisements.

Similarly, commenters felt additional exemptions were appropriate for "lobby boards"—boards located in the lobby of an institution which state the current rates and other key terms for various deposit accounts. Commenters noted that abbreviated disclosures would not harm consumers because their presence in the lobby ensured that staff were available to answer any questions about the details of an account, and to provide written disclosures upon request. For the same reasons, commenters also requested that an exemption be made for telephone response machines, which are often used to provide up-to-date recorded rate information to customers who initiate a call for that specific purpose or who are waiting to speak with staff on unrelated matters.

Based on issues raised by the commenters and upon further analysis, the Board is exercising its exception authority under section 269(a)(3) of the act to establish a limited exemption from several of the advertising provisions for broadcast or electronic media, such as television or radio; outdoor media, such as billboards; telephone response machines; and lobby boards facing inside an institution or the offices of a deposit broker. The Board recognizes the inherent limitations of time or space in certain media, and believes the purposes of the act would be frustrated if burdensome disclosure requirements caused institutions to place fewer advertisements that consumers may use to comparison shop.

The final rule provides that advertisements made by the use of these media will remain subject to the prohibition regarding misleading or inaccurate advertisements. Rate information must be disclosed as an annual percentage yield. In addition, if an annual percentage yield is stated, these advertisements must state any minimum balances required to earn that yield. For time accounts, the term must also be stated. Although space constraints may limit the likelihood that bonuses are mentioned, any advertisement in these media that states a bonus triggers the disclosures required by this paragraph, as well as a statement regarding the conditions under which the bonus will be paid and the time it will be paid. With these rules, consumers will have the key information about accounts in all advertisements.

Finally, in the case of lobby boards inside a depository institution or a deposit broker's office, a notice must also appear on the board advising consumers that they can obtain further information about those accounts. For example, the statement could read "ask us for further information about these accounts," or words of similar meaning. Lobby boards placed primarily for viewing by the general public rather than consumers inside the institution or deposit broker's office are not exempt from the advertising provisions of this section, since consumers are less likely to receive details about the account from customer service representatives.

Section 230.9—Enforcement and Record Retention

Paragraph (c)—Record Retention

The Board has left unchanged from the proposal the language in the regulation dealing with record retention, but is clarifying a number of issues raised by commenters. The regulation requires institutions to retain records regarding compliance with their responsibilities for a minimum of two years after disclosures are required to be made or actions are required to be taken. While the act does not specify a time period, two years is the period commonly used under the Board's other consumer regulations (for example, Regulations Z and E). Furthermore, given the frequency of examinations by the enforcement agencies, a record retention requirement of this length should allow examiners adequate review of pertinent documentation during periodic examinations. The record retention requirements apply to all aspects of compliance, including advertising provisions. In light of the fact that institutions are subject to civil liability for violations of the advertising rules the Board believes it is essential for the agencies to be able to examine advertisements as well as disclosures for compliance.

A number of commenters requested additional guidance on the record retention requirements. Institutions must keep evidence that disclosures were provided. They may meet this duty by demonstrating that they have established and maintained procedures for providing disclosures to every consumer entitled to them under the timing rules set forth in the regulation; in such cases, they must retain sample disclosures for each account offered to consumers. (And, of course, a sample notice of any change to the terms of an account would have to be retained.) Institutions following these procedures are not required to keep a copy of each disclosure provided to every consumer. The Board believes that evidence that an institution has established procedures for providing disclosures, has followed them, and has retained sample disclosures will establish compliance with this section.

A number of commenters asked whether institutions were required to keep a list of consumer requests for information. The Board is not requiring institutions to keep a "log" of each consumer request made for disclosures to comply with the recordkeeping rules Again, maintenance of procedures for providing disclosures upon request and retention of copies of sample disclosures will be sufficient.

Institutions must keep copies of printed advertisements and of the text of advertisements that are conveyed by electronic or broadcast media.

Institutions need not retain a copy of each periodic statement, as long as the specific information on each statement (such as the fees, interest and annual percentage yield earned) can be retrieved. Sufficient rate and balance information must be retained to enable examiners to verify the interest paid on an account. For periodic statements and other disclosures, records may be stored by use of microfiche, microfilm, magnetic tape, or other methods capable of accurately retaining and reproducing information (for example, from a computer file). The institution need not retain disclosures in hard copy, as long as it retains enough information to reconstruct the required disclosures or other records.

Appendix A—Annual Percentage Yield Calculation

Appendix A establishes the rules that institutions must use to calculate the annual percentage yield. The appendix contains two main parts: Part I discusses the calculations for account disclosures and advertisements, and Part II deals with periodic statement

calculations. Part I contains only two annual percentage yield formulas: A "general" formula that can be used for all types of accounts and a "simple" formula that can be used for those accounts that have a maturity of one year, or that have an unstated maturity. The appendix provides several examples to illustrate how these formulas work. The appendix explains the general rules and describes how they should be applied in more complicated accounts, such as stepped-rate and tiered-rate accounts. If an account has two types of features, such as variable and tiered rates, all applicable rules must be followed. Part II contains a single formula for calculating the annual percentage yield earned on periodic statements, with no special rules for multiple rate accounts.

The formulas that appeared in the proposed appendix provided that the annual percentage yield reflected only interest, and did not include the value of any bonuses. The majority of commenters supported the proposal, particularly the exclusion of bonuses from the formulas. Many commenters felt that adding bonuses to the formulas would significantly increase the complexity of the annual percentage yield calculation. They were concerned about determining the value of bonuses to be used in the calculation, and the potential for liability if the value was later disputed.

However, some commenters felt bonuses should be included in the calculation of the annual percentage yield. They believed an annual percentage yield that included bonuses would help consumers compare accounts offering bonuses and those that do not. They felt institutions offering bonuses as part of their marketing strategy would be placed at a competitive disadvantage if the annual percentage yield could not be used to distinguish the institution from an institution that does not offer bonuses.

Based on comments received and upon further analysis, the Board is adopting the position reflected in the proposal. The Board believes that excluding the value of any bonuses from the calculation of the annual percentage yield and the annual percentage yield earned is the better approach. The Board believes the difficulty of determining the value of bonuses for calculating the yields, especially in light of the potential liability for violations of the regulation, would significantly complicate compliance with the regulation.

As in the proposal, footnote 1 of the appendix excludes from the calculation of the annual percentage yield any amounts that are determined by circumstances that may or may not occur. For example, if an institution chooses to pay .01% additional interest for each point scored in a future sporting event, that potential is not reflected in the annual percentage yield in advertisements and account disclosures. (Of course, if the higher rate is in fact later paid that would be taken into account in the annual percentage yield earned on a periodic statement.) Similarly, earnings on an account based on changes in a stock market indicator (from the date an account is opened to the date it matures or is closed, for example) or in foreign currency exchange rates would not be reflected in the annual percentage yield.

The Board proposed that the annual percentage yield would be calculated by rounding the figure to the nearest one-hundredth of one percentage point, and showing it to two decimal places. The Board solicited comment on whether a tolerance should be provided for calculating the annual percentage yield. These provisions were supported by commenters and have been moved to a new section. (See § 230.3(f) and its accompanying explanation.)

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

A. *General rules.* Commenters who addressed this part of the proposed appendix generally agreed with the approach taken, and the final version is adopted very much as proposed, with revisions as noted below. A few special cases were described by commenters and guidance was requested on how they should be handled.

Many institutions permit consumers to withdraw accrued interest from time accounts, for example, on a monthly basis. The Board believes that requiring different annual percentage yield calculations based on specific consumer decisions about whether to withdraw interest or leave it in the account until maturity would significantly complicate compliance with the regulation. Thus, if consumers are permitted but not required to withdraw accrued interest from time accounts, institutions must calculate the annual percentage yield assuming the interest is *not* withdrawn from the account. (See § 230.4(b)(6)(iii) for a disclosure of this policy.) If accrued interest *must* be withdrawn from an account that compounds interest (that is, if an institution does not permit a consumer to leave accrued interest in the account) the annual percentage yield calculation must reflect such a requirement. This is reflected in new footnote 3.

As proposed, the final version provides an accommodation for annual percentage yield calculations for time accounts that are offered in multiples of months. Institutions may base the number of days on either the actual numbers of days during the applicable period, or the number that would occur in any actual sequence of that many calendar months. For example, if an institution offers a six-month certificate of deposit, the institution may calculate the annual percentage yield based on the number of days in a particular six-month period, or in any six-month period. This rule is intended to minimize the need of institutions to recalculate the annual percentage yield on an ongoing basis. The regulation requires institutions that choose to use this permissive rule to use the same number of days to calculate the dollar amount of interest that will be earned on the account in the annual percentage yield formula (where "Interest" is divided by "Principal"). Thus, the institution with the six-month certificate of deposit above may base the annual percentage yield calculation on any number of days from 181 to 184, since various six-month periods could contain that range of days. If the institution chose to use 181 days as the "Days in term," it must also use 181 days to compute the "Interest" figure used in the formula. An institution may not use 181 as the "Days in Term" and use an "Interest" figure based on 183 days. (The amount of interest paid by the institution must be based on the actual number of days in the account due to the requirement to pay interest on the principal in the account each day. (See § 230.7(a) of the regulation.))

B. *Stepped-rate accounts (different rates apply in succeeding periods).* Several commenters suggested that the rules regarding stepped-rate accounts should apply only to time accounts. For example, they questioned whether the rules should apply to an interest rate on a transaction account opened by a consumer but will decrease at some definite future date. While a stepped-rate feature typically is offered for time accounts, the Board believes a consistent rule should apply to any account with a stepped-rate feature.

C. *Variable-rate accounts.* The Board proposed that variable-rate accounts with an introductory premium or discount rate must be treated like stepped-rate accounts. This is, the calculation of the annual percentage yield must reflect the introductory interest rate for the length of time provided for in the deposit contract, and the variable interest rate that (but for the introductory rate) would have been

in effect when the account was opened or advertised for the remainder of the 365-day year.

Several commenters asked for guidance on how to compute the annual percentage yield for an introductory premium or discount rate where the variable interest rate "that would have been in effect" but for the premium or discount is not tied to an index, or is not otherwise known by the institution at the time the account is advertised or offered to a consumer.

The final rule addressed this situation. If, after the introductory rate ends, the succeeding variable rate will be tied to an index, the index-based rate in effect at the time the disclosure is made must be used for the remainder of the year. If the succeeding rate is not tied to an index, the rate currently in effect for existing consumers holding the same account who are not receiving the introductory interest rate must be used as the assumed rate for the remainder of the year. If the succeeding rate is not tied to an index and the "introductory" rate is offered to both new and existing consumer account holders with the same account, the account is simply a variable-rate account, and the stepped-rate rules would not apply .

D. *Tiered-rate accounts (different rates apply to specified balance levels).* As in the proposal, the final rule contains special rules for tiered-rate accounts (in which two or more interest rates are applicable to specified balance levels) to enable consumers to compare annual percentage yields for such accounts. The appendix sets out the two basic methods of tiering used by institutions to calculate the interest they will pay on such accounts.

Tiering Method A. In the first method (shown in the appendix as "Tiering Method A"), an institution pays the applicable "tiered" interest rate on the entire amount of the deposit. For accounts of this type, institutions must state the annual percentage yield that applies to each balance tier. In the example given in the appendix, this results in disclosure of three separate annual percentage yields—one for each tier. Although multiple annual percentage yields must be stated for these types of accounts, each annual percentage yield is calculated according to the general rule in the appendix.

When annual percentage yields are computed on this type of tiered-rate account, only one annual percentage yield figure will apply to any single tier. Several commenters requested clarification regarding the amount of the account balance that institutions should assume in computing the annual percentage yield on these types of accounts. As stated in the final regulation, within each tier, the annual percentage yield will not vary within the amount of principal assumed to have been deposited. Therefore, for these types of tiered-rate accounts, institutions may use any balance amount within a particular tier in order to determine the interest amount that would be paid on balances within that tier.

Tiering Method B In the second method of calculating interest on tiered-rate accounts (shown in the appendix as "Tiering Method B"), institutions pay the applicable tiered interest rate only on the portion of the deposit balance that falls within each specified tier, rather than on the entire amount of the deposit. For institutions that compute interest in this manner, a range of annual percentage yields must be provided for each tier, other than for the first tier—to accurately reflect how interest is paid. The low end of each range is figured on the lowest balance in the tier and the high end is figured on the highest balance in the tier.

This approach requires an institution to use a maximum balance amount that would apply in order to figure the high end of the annual percentage yield range for the highest tier. If the account has no maximum balance amount, an assumed balance is required.

The proposed appendix was written with an assumed high balance of $100,000 for accounts not otherwise having a maximum balance amount. The Board solicited comment on the best approach for determining the maximum balance amount of the highest tier, and suggested the following alternatives:

(1) $100,000, which is the current amount for which accounts are federally insured;

(2) Any amount, unless the account agreement sets a maximum limit; or

(3) Any maximum limit set forth in the account agreement.

Many commenters favored a uniform rule assuming $100,000 as the maximum balance. Some commenters expressed concern that in the absence of a uniform standard, comparisons of accounts among institutions would be more difficult and consumers could be misled by annual percentage yields for the highest tier that assume a very high maximum balance that consumers are unlikely to maintain. However, others felt that an artificial ceiling placed institutions allowing higher maximum balances at a competitive disadvantage, since the higher annual percentage yield based on the higher maximum balance could not be disclosed.

Based on the comments received and upon further analysis, the final regulation provides that if an institution limits the maximum balance on an account, that figure should be used as the highest balance in the highest tier. Thus, if the maximum balance that can be on deposit in a tiered-rate account is $100,000, institutions would use that number to figure the annual percentage yield for the high end of the top tier. If the tiered account has no maximum balance, however, the institution may assume any amount as the maximum balance amount. The Board believes that, while there may be some value in uniformity for the maximum balance figure of a tiered-rate account, limiting the maximum balance to a single figure might not be helpful to consumers. Since an institution may choose not to limit the amount of a deposit, requiring the use of a single figure could be misleading.

Part II. Annual Percentage Yield Earned for Periodic Statements

The calculation for the annual percentage yield earned that appears on a periodic statement is similar to the calculation for the annual percentage yield that appears in advertisements and account disclosures. The difference between the two formulas in that the annual percentage yield earned is tied directly to the interest and account balance for the period reflected on the statement; the annual percentage yield in account disclosures and advertisements is not tied to the consumer's exact account balance.

In the Board's proposal, the annual percentage yield earned reflected "the relationship between the interest actually paid and credited to the consumer's account during the period and the average daily balance in the account for the period" (emphasis added). Commenters urged the Board to modify this language. They were concerned that such a rule would confuse consumers whose accounts provide periodic statements more frequently than they credit interest (for example, monthly statements with interest credited quarterly). (See the discussion accompanying § 230.6.) They believed that the Congress did not intend for consumers with such accounts to receive two monthly statements during the quarter showing no interest earnings, and a final monthly statement showing the interest for all three months, and an annual percentage yield earned that reflects three months' worth of interest paid during the month.

In light of these concerns, the Board has modified the language in this part of the appendix (as well as that in § 230.6). Under the final rule, the annual

percentage yield earned is an annualized rate that reflects the relationship between the amount of interest earned on the consumer's account during the statement period and the average balance in the account for the statement period.

Several commenters requested clarification regarding the proposal's requirement that the annual percentage yield earned relates the amount of interest earned on a consumer's account during the statement period to the "*average daily balance* in the account for the period" (emphasis added). Commenters were concerned that, despite the choice of calculation methods offered in § 230.7(a), the regulation required the use of the average daily balance method to comply with § 230.6. The calculation required by Part II does not impair an institution's choice of balance calculation methods for the payment of interest. The interest figure used in the calculation may be derived from the daily balance method or the average daily balance method. The balance used in the annual percentage yield earned formula is the sum of the balances for each day in the period divided by the number of days in the period.

A number of commenters raised the problems presented when the statement period does not coincide exactly with the interest accrual period. Several commenters stated that they calculate interest using a calendar month rather than the period covered by the statement cycle. This poses a particular problem when the average daily balance method is used. For example, a periodic statement might cover the period from June 16 through July 15, and reflect transactions that occurred during that period. The institution, however, accrues interest based on the average daily balance in the account during the month of June. The final rule provides that institutions that use an average daily balance method and calculate interest for a period other than the statement period must reflect on the statement (for the period during which the interest calculation period ends) the interest earned on the account during that other period (and not during the statement period). Furthermore, they must base the annual percentage yield earned on the balance information that corresponds to the interest earned. For example, if a 3.50% interest rate (with daily compounding) is paid on an average daily balance of $500 in June, interest of $1.44 is earned in June. The annual percentage yield earned would be 3.56%, based on the average daily balance in the account during June ($500). If the periodic statement covers June 16 through July 15, the institution would show the interest earned and the annual percentage yield earned in June on that periodic statement. (See discussion of § 230.6(b).)

Commenters also asked the Board to address the situation in which a monthly statement is issued, but interest is calculated on a quarterly basis. For institutions that use the daily balance method, the final regulation requires institutions to calculate the annual percentage yield earned based on interest earned for the monthly period, even if the interest is calculated or credited in a different period. If, however, an institution calculates interest on the average daily balance for the quarter, the average daily balance cannot be determined when statements are prepared for the first two months of the quarter. Therefore, no interest earned or annual percentage yield earned would be disclosed on the first or second monthly statements. The interest earned for the quarter would be shown on the statement for the third month and the annual percentage yield earned would be figured on the basis of the quarter. The third example in Part II of the appendix shows this annual percentage yield earned calculation.

Appendix B—Model Clauses and Sample Forms.

The model clauses and sample forms in appendix B are intended for optional use by depository institutions to aid compliance with the disclosure requirements of §§ 230.4 (account disclosures), 230.5 (subsequent disclosures), and 230.8 (advertisements). Section 269(b) of the act provides that institutions that use these clauses will be in compliance with the disclosure provisions of the act. In addition, use of any modified version of a model clause will also be considered in compliance as long as the institution does not delete information required by the act or rearrange the format so as to affect the substance, clarity, or meaningful sequence of the disclosure.

As discussed in the supplementary information to § 230.3(a), the final rule provides for flexibility in designing the format of the disclosures. Institutions can choose to prepare a single document or brochure that incorporates disclosures for all accounts offered, or prepare different documents for each type of account. Institutions may also use inserts to a document (see Sample Form B–4) or fill in blanks (see Sample Forms B–5, B–6 and B–7 which use double underlining to indicate terms that have been filled in) to show current rates, fees or other terms.

The sample forms included in appendix B illustrate the information that must be provided to a consumer when an account is opened under § 230.4(a)(1). Institutions are given even greater flexibility in disclosing the annual percentage yield, the interest rate, and the maturity of a time account in responding to a consumer's request under § 230.4(a)(2). For disclosures sent in response to a request, the disclosure may identify the date when the rate and yield were accurate and provide a telephone number for consumers to call to obtain current rate information. In addition, the maturity of a time account can be stated as a term, rather than a date. (See Model Clause B–1 (h)(i).)

The regulation allows institutions to satisfy their requirements under Regulation DD with disclosures that meet the requirements of Regulation E (see § 230.3(c)). The model clauses and sample forms do not include examples of disclosures which would be covered by both this regulation and Regulation E (for example, disclosing the amount of a fee for ATM usage). Depository institutions should consult appendix A to Regulation E for appropriate model clauses.

The Board requested comment on what additional model clauses and sample forms should be included in appendix B. Although a number of commenters requested that the Board provide a model periodic statement, the majority of commenters did not believe including a statement was either necessary or desirable. Most commenters encouraged the Board to allow institutions to independently develop a periodic statement that meets the needs of their customers, so long as it also meets the requirements of the regulation. The final rule does not contain model clauses for a periodic statement.

The Board also requested comment on whether sample advertisements should be included in the final rule and whether the samples provided in the proposal were useful. Commenters were divided on whether sample advertisements should be included. Some supported including the samples to provide guidance to institutions on exactly how to comply with the advertising requirements of the regulation. These commenters believed including the sample advertisements would help to insulate institutions from civil liability. Other commenters urged the Board to delete the sample advertisements. They believed that providing advertisements would open institutions up to challenge by both regulators and consumers when

an advertisement does not match the sample form.

The Board believes that since civil liability may occur due to violations of the advertising requirements, many institutions will benefit from including the samples in the final rule. Other sample advertisements have not been added, however.

In the model clauses, italicized words indicate the type of disclosure an institution should insert in the space provided (for example, an institution might insert "March 25, 1993" in the blank for a "(date)" disclosure). Brackets and "/" indicate an institution must choose the alternative that describes its practice (for example, [daily balance/average daily balance]).

1. B–1 Model Clauses

Clause (a)(i) contains the model clause describing fixed-rate accounts. While the proposal required institutions to disclose the period of time the interest rate would be in effect for both fixed- and variable-rate accounts, the final rule clarifies such a disclosure is only necessary for fixed-rate accounts. (See § 230.4(b)(1)(i).)

Clause (a)(ii) contains models for disclosing a variable-rate account. The proposal included a model clause that described changing rates based on "market or other factors." Many commenters questioned the usefulness of such a model as many institutions determine rate changes internally. Accordingly, the final rule includes language describing rate changes made at the institution's discretion.

Clause (a)(iii) provides a model clause to describe a stepped-rate account. If a stepped-rate account is also a variable-rate account, the institution must provide the variable-rate disclosures, as applicable. (See Clause (a)(ii).)

Clause (a)(iv) contains alternative language for describing tiered-rate accounts. As explained in appendix A, there are two types of tiered-rate accounts. The first type (Tiering Method A) pays the stated interest rate that corresponds to the applicable deposit tier on the full balance in the account. The second type of tiered-rate account (Tiering Method B) pays the stated interest rate only on that portion of the balance within the specified tier. An institution must provide the disclosure that describes its method of calculating interest.

Institutions must also disclose whether a tiered-rate account is a fixed-rate or variable-rate account. For example, if it is a fixed-rate account, the disclosure must include the time period the rates will be in effect. (See Clause (a)(i).) If the tiered-rate account is a variable-rate account, the institution must also provide the variable-rate disclosures. (See Clause (a)(ii).)

Clause (b)(ii) has been added to address the situation where the institution will not pay accrued interest when the consumer closes the account before that interest has been credited to the account.

Clauses (c) (i)–(iii) contain models for disclosing any minimum balance requirements associated with the account. The regulation requires that the disclosures state any minimum balance that is required to open the account, avoid the imposition of fees or obtain the annual percentage yield disclosed. If a fee is incurred for not maintaining a minimum balance, it may be stated either with this disclosure or with other fees (or both). The clauses related to the minimum balance to avoid the imposition of a fee provide examples based on the daily balance and the average daily balance methods. Institutions are not limited, however, to those two methods when determining the minimum balance for imposing a fee.

The disclosure describing the minimum balance to avoid the imposition of a fee should specify the frequency with which the fee may be assessed. For example, a minimum balance fee might be assessed monthly, even if the institution looks at whether the consumer maintained a certain balance each day of the month. In such a case, the disclosure must state the fee is imposed on a monthly basis.

Clauses (d) (i) and (ii) track the definitions for daily balance method (§ 230.2(i)) and average daily balance method (§ 230.2(d)), respectively.

Clause (e) contains models for disclosing when interest begins to accrue on noncash deposits. Section 230.7(c) requires institutions to accrue interest no later than the business day specified for interest-bearing accounts in the EFAA and Regulation CC. Institutions may, however, begin to accrue interest on the day an item is deposited (or at some time before being required to by Regulation CC). The institution may also disclose additional information, for example, that deposits received after 2 p.m. will be credited on the next business day.

Clause (f) contains a model format for use in disclosing fees. Section 230.4(b)(4) requires institutions to disclose either the amount of any fee that may be imposed in connection with the account or provide an explanation of how the fee will be determined. In addition, the disclosure must state the conditions under which the fee may be imposed if that is not clear from the name and description of the fee. (See discussion of § 230.4(b)(4) regarding examples of fees that may be assessed in connection with the account.)

Clause (h) contains model language for the additional disclosures required by § 230.4(b)(6) for time accounts. Clause (h)(i) contains alternative disclosures for describing the maturity date of a time account. The first alternative (stating a specific date) is appropriate for a disclosure when an account is opened. The second can be used only when providing disclosures in response to a consumer's request.

The model disclosure in clause (h)(iii) may be used if an institution compounds interest and allows consumers to withdraw interest during the term of the time account. As discussed in § 230.4(b)(6)(iii), this disclosure alerts consumers that the annual percentage yield assumes interest remains on deposit until maturity and that if interest is withdrawn, earnings will be reduced.

The proposal did not require disclosures for bonuses paid on accounts. The final rule requires that institutions offering bonuses state the bonus and disclose any minimum balance or time requirement to obtain the bonus and when the bonus will be paid. Clause (i) contains the model clauses for the disclosure requirements relating to bonuses. The clauses may be used for both cash and merchandise bonuses.

2. B–2 Model Clauses

Model clauses for change in terms notices are found in B–2. The second clause, describing a future decrease in the interest rate and annual percentage yield, is only applicable to fixed-rate accounts.

3. B–3 Model Clauses

Commenters requested that model clauses for the pre-maturity notices for time accounts be added to the final rule. The model clauses illustrate the requirements in § 230.5(b)(2) and 230.5(d). Institutions should refer to model clauses in B–1 and B–2 for other applicable disclosures.

4. B–4 Sample Form

This sample form illustrates use of a disclosure form for multiple accounts. The form has been marked with an "X" to indicate it is for a NOW account. The sample form includes both a fee schedule insert and a rate sheet insert. The sample thus shows that institutions may provide current rates on an insert sheet when the disclosure is given to the consumer.

The fees shown in this sample (as well as in B–5 and B–6) where chosen at

random and are not intended to represent any required pricing standards.

In the rate sheet insert, the calculations of the annual percentage yield for the 3-month and 6-month certificates are based on 92 days and 181 days, respectively.

5. B–6 Sample Form

The proposal did not contain a sample form for a tiered-rate account. Sample Form B–6 illustrates a tiered-rate account which uses Tiering Method A (discussed in appendix A and Clause (a)(iv)) to calculate interest. The form uses a narrative description of a tiered-rate account. Institutions can use a different format (for example, a chart similar to the one in B–4), so long as all of the necessary information for each tier is clearly presented. The form does not contain a separate disclosure of the minimum balance required to obtain the annual percentage yield, as the tiered-rate disclosure itself provides that information.

6. Sample Forms B–8 and B–9

These samples illustrate the requirements for advertisements found in § 230.8(c) of the regulation. Specifically, the samples demonstrate how certificates of deposit and money market accounts could be advertised in compliance with the regulation. The advertisement for the money market account (B–9) is for a tiered-rate account that uses Tiering Method A. This advertisement does not contain the disclosure related to a minimum deposit to open the account (§ 230.8(c)(4)). This indicates the opening deposit is not greater than the minimum balance necessary to obtain the advertised annual percentage yield.

The final rule does not require as many advertising disclosures as the proposal did and the sample advertisements reflect such changes (see § 230.8(c)). In addition, the final rule allows institutions to use the abbreviation "APY" if the term is printed out or stated in full at least once in an advertisement (see § 230.8(b)). Finally, while the proposal required that an advertisement state the period of time the annual percentage yield is in effect, the final rule allows the institution the alternative of providing a statement that the annual percentage yield is accurate as of a specified date. (See § 230.8(c)(2) and Sample Form B–9.)

Appendix C—Effect on State Laws

This appendix outlines the standards and process used for state law determinations. It has been revised to reflect the fact that the final regulation applies the inconsistency standard to state laws requiring actions (for example, use of particular balance calculation methods) as well as to state disclosure laws. (See discussion in § 230.1(d).)

Appendix D—Issuance of Staff Interpretations

The regulation retains the same method of providing official staff interpretations to the regulation as is used for Regulations B, E, and Z—that is, through a commentary. The Board proposed to follow the schedule established for updating several of its consumer regulation commentaries: publish changes for public comment in the autumn, with final rules effective the following spring, but compliance optional until the next October. The Board solicited comment on whether this approach would be helpful, or whether issuance of so many proposals at the same time would be difficult to deal with, so as to make a different schedule for this regulation preferable. Few comments were received on the issue. The Board therefore plans to follow its established pattern for other staff commentaries. An official staff commentary is expected to be issued in proposed form in the fall of 1993, and adopted in final form in the spring of 1994, after an opportunity for public comment. Thereafter, yearly updates of the commentary, as needed, would be contemplated.

Transition Rules

The effective date of the regulation is September 21, 1992, and the mandatory compliance date is March 21, 1993. Institutions will have to provide disclosures to any consumer who opens an account on or after March 21, 1993. Institutions also will have to provide disclosures for time accounts renewed thereafter, including automatically-renewable accounts that were opened prior to that date. Similarly, periodic statement disclosures and change in term notices would have to be provided thereafter, as applicable, for consumer accounts—including those accounts opened prior to the mandatory compliance date. Finally, the substantive provisions regarding the payment of interest will apply to consumer accounts existing as of the mandatory compliance date; they are not limited to new account holders.

Commenters raised a number of concerns about the mandatory compliance date of the regulation, and particularly about the need for transition rules for certain existing accounts. To ensure an orderly introduction of the protections intended by the Congress without undue disruption of existing relationships, the Board is providing a number of special rules.

Commenters raised concerns about time accounts opened prior to the mandatory compliance date. A number of commenters stated that their existing practice is to calculate interest based on a 360-day year (1/360 of the annual rate paid for 360 days a year). For time accounts opened prior to the mandatory compliance date, institutions are not required to change to a 365-day year during the remaining term of the account. Of course, if an account is renewed on or after the mandatory compliance date (including automatically renewable time accounts), all aspects of the regulation will apply at that point.

Sections 230.5(b), 230.5(c) and 230.5(d) require institutions to send notices prior to maturity for rollover and nonrollover time accounts, but institutions need not send any notice prior to the mandatory compliance date. Thus, institutions do not have to send the prematurity notice for any existing time account (rollover or nonrollover) that will automatically renew within 30 days after the mandatory compliance date.

Section 230.4(c) requires a notice about the availability of disclosures to be given to existing consumer account holders who receive periodic statements. Special transition rules dealing with this section are set forth in the supplementary information accompanying that section.

Special transition rules dealing with accounts held by unincorporated nonbusiness associations on the mandatory compliance date and the duty to provide information on periodic statements are discussed in the supplementary information accompanying §§ 230.2(a) and 230.6, respectively.

(3) Economic impact statement

The Board's Division of Research and Statistics has prepared an economic impact statement on the proposed regulation. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC, 20551, or by telephone at (202) 452–3245.

(4) Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13), the information collection was reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after

considering comments received during the public comment period.

A number of commenters believed that complying with Regulation DD would place significant paperwork burdens on institutions, particularly small institutions. They questioned whether consumers wanted to receive such detailed information and stated that the expense of providing the disclosures would be passed on to consumers through decreased interest rates.

A few commenters reacted to the specific burden estimates that appeared in the **Federal Register** notice for proposed Regulation DD. They generally believed that the estimates under-reported the burden, particularly the time associated with providing complete disclosures to consumers who are opening new accounts, and explaining those disclosures.

The Board recognizes that Regulation DD will require institutions to perform annual percentage yield calculations for the various products offered, calculations that the institutions otherwise may not make. In addition, institutions will have to prepare updated disclosures as frequently as needed to incorporate any movement of interest rates. To more fully reflect these responsibilities, the Board has increased the burden estimates for providing complete disclosures, whether as part of opening a new account or in response to a consumer request.

A detailed description of the disclosure and recordkeeping requirements (including the reasons for them, the institutions that would be subject to them, and how frequently disclosures my be required) is contained elsewhere in this notice.

The information collection is mandatory (105 Stat. 2236, 2334). The requirements will apply to both large and small institutions. The impact on small institutions will depend on the extent and variety of their product offerings and their choice of the various compliance options offered by the regulations. Model disclosure forms in the regulation should somewhat ease compliance burdens on these institutions.

The following information about paperwork burden relates only to the effect of the regulation on state member banks. Institutions that will be subject to Regulation DD other than state member banks are supervised by other federal agencies: the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. For purposes of the Paperwork Reduction Act, these agencies will report their own estimates of the paperwork burden imposed by the Truth in Savings requirements.

The Board estimates that the disclosure requirement will result in a one-time reporting burden of approximately 200,000 hours and an annual reporting burden of approximately 1.7 million hours for state member banks.

Information Collection

Report title: Recordkeeping and Disclosure Requirements in Connection with Regulation DD (Truth in Savings)
Report number: n/a
OMB docket number: 7100–0255
Frequency: As needed (or on occasion)
Reporters: State member banks

	No. of records subject to requirement	×	Estimated time per response	=	Estimated total No. of hours of annual reporting burden
Notice to existing account holders (one-time burden)	8,240,000		1.5 min.		206,000
Complete disclosures (Upon request and new accounts)	3,657,000		5 min.		304,750
Rollover CDs	800,000		1 min.		13,334
Notice for nonrollover CDs	267,000		1 min.		4,450
Change in terms	1,100,000		1 min.		18,334
Periodic statements	82,500,000		1 min.		1,375,000
Advertising	12,000		60 min.		12,000

List of Subjects in 12 CFR Part 230

Advertising, Banks, banking, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in savings.

For the reasons set forth in the preamble and pursuant to authority granted in section 269 of the Truth in Savings Act (12 U.S.C. 4301 et seq.; Public Law 102–242; 105 Stat. 2236), the Board is amending 12 CFR chapter II by adding part 230 to read as follows:

PART 230—TRUTH IN SAVINGS (REGULATION DD)

Sec.

230.1 Authority, purpose, coverage, and effect on state laws.
230.2 Definitions.
230.3 General disclosure requirements.
230.4 Account disclosures.
230.5 Subsequent disclosures.
230.6 Periodic statement disclosures.
230.7 Payment of interest.
230.8 Advertising.
230.9 Enforcement and record retention.

Appendix A to Part 230—Annual Percentage Yield Calculation

Appendix B to Part 230—Model Clauses and Sample Forms

Appendix C to Part 230—Effect on State Laws

Appendix D to Part 230—Issuance of Staff Interpretations

Authority: 12 U.S.C. 4301 *et seq.*

§ 230.1 Authority, purpose, coverage, and effect on state laws.

(a) *Authority.* This part, known as Regulation DD, is issued by the Board of Governors of the Federal Reserve System to implement the Truth in Savings Act of 1991 (the act), contained in the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4301 et seq., Pub. L. 102–242, 105 Stat. 2236). Information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 et seq. and have been assigned OMB No. 7100–0255.

(b) *Purpose.* The purpose of this part is to enable consumers to make informed decisions about accounts at depository institutions. This part requires depository institutions to provide disclosures so that consumers can make meaningful comparisons among depository institutions.

(c) *Coverage.* This part applies to depository institutions except for credit unions. In addition, the advertising rules in § 230.8 of this part apply to any person who advertises an account offered by a depository institution, including deposit brokers.

(d) *Effect on state laws.* State law requirements that are inconsistent with the requirements of the act and this part are preempted to the extent of the inconsistency. Additional information on inconsistent state laws and the procedures for requesting a preemption determination from the Board are set forth in appendix C of this part.

§ 230.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Account* means a deposit account at a depository institution that is held by or offered to a consumer. It includes time, demand, savings, and negotiable order of withdrawal accounts. For purposes of the advertising requirements in § 230.8 of this part, the term also includes an account at a depository institution that is held by or on behalf of a deposit broker, if any interest in the account is held by or offered to a consumer. The term does not include an existing account held by an unincorporated nonbusiness association of natural persons prior to March 21, 1993, unless the association notifies the institution that it meets the definition of "consumer."

(b) *Advertisement* means a commercial message, appearing in any medium, that promotes directly or indirectly the availability of, or a deposit in, an account.

(c) *Annual percentage yield* means a percentage rate reflecting the total amount of interest paid on an account, based on the interest rate and the frequency of compounding for a 365-day period and calculated according to the rules in appendix A of this part.

(d) *Average daily balance method* means the application of a periodic rate to the average daily balance in the account for the period. The average daily balance is determined by adding the full amount of principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) *Board* means the Board of Governors of the Federal Reserve System.

(f) *Bonus* means a premium, gift, award, or other consideration worth more than $10 (whether in the form of cash, credit, merchandise, or any equivalent) given or offered to a consumer during a year in exchange for opening, maintaining, renewing, or increasing an account balance. The term does not include interest, other consideration worth $10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(g) *Business day* means a calendar day other than a Saturday, a Sunday, or any of the legal public holidays specified in 5 U.S.C. 6103(a).

(h) *Consumer* means a natural person who holds an account primarily for personal, family, or household purposes, or to whom such an account is offered. The term also includes an unincorporated nonbusiness association of natural persons. The term does not include a natural person who holds an account for another in a professional capacity.

(i) *Daily balance method* means the application of a daily periodic rate to the full amount of principal in the account each day.

(j) *Depository institution* and *institution* mean an institution defined in section 19(b)(1)(A)(i)-(vi) of the Federal Reserve Act (12 U.S.C. 461), except credit unions defined in section 19(b)(1)(A)(iv).

(k) *Deposit broker* means any person who is a deposit broker as defined in section 29(g) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)).

(l) *Fixed-rate account* means an account for which the institution contracts to give at least 30 calendar days advance written notice of decreases in the interest rate.

(m) *Grace period* means a period following the maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty.

(n) *Interest* means any payment to a consumer or to an account for the use of funds in an account, calculated by application of a periodic rate to the balance. The term does not include the payment of a bonus or other consideration worth $10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(o) *Interest rate* means the annual rate of interest paid on an account which does not reflect compounding. For the purposes of the account disclosures in § 230.4(b)(1)(i) of this part, the interest rate may, but need not, be referred to as the "annual percentage rate" in addition to being referred to as the "interest rate."

(p) *Passbook savings account* means a savings account in which the consumer retains a book or other document in which the institution records transactions on the account.

(q) *Periodic statement* means a statement setting forth information about an account (other than a time account or passbook savings account) that is provided to a consumer on a regular basis four or more times a year.

(r) *State* means a state, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.

(s) *Stepped-rate account* means an account that has two or more interest rates that take effect in succeeding periods and are known when the account is opened.

(t) *Tiered-rate account* means an account that has two or more interest rates that are applicable to specified balance levels.

(u) *Time account* means an account with a maturity of at least seven days in which the consumer generally does not have a right to make withdrawals for six days after the account is opened, unless the deposit is subject to an early withdrawal penalty of at least seven days' interest on amounts withdrawn.

(v) *Variable-rate account* means an account in which the interest rate may change after the account is opened, unless the institution contracts to give at least 30 calendar days advance written notice of rate decreases.

§ 230.3 General disclosure requirements.

(a) *Form.* Depository institutions shall make the disclosures required by §§ 230.4 through 230.8 of this part, as applicable, clearly and conspicuously in writing and in a form the consumer may keep. Disclosures for each account offered by an institution may be presented separately or combined with disclosures for the institution's other accounts, as long as it is clear which disclosures are applicable to the consumer's account.

(b) *General.* The disclosures shall reflect the terms of the legal obligation of the account agreement between the consumer and the depository institution. Disclosures may be made in languages other than English, provided the disclosures are available in English upon request.

(c) *Relation to Regulation E (12 CFR part 205).* Disclosures required by and provided in accordance with the Electronic Fund Transfer Act (15 U.S.C. 1601) and its implementing Regulation E (12 CFR part 205) that are also required by this part may be substituted for the disclosures required by this part.

(d) *Multiple consumers.* If an account is held by more than one consumer, disclosures may be made to any one of the consumers.

(e) *Oral response to inquiries.* In an oral response to a consumer's inquiry about interest rates payable on its accounts, the depository institution shall state the annual percentage yield. The interest rate may be stated in addition to the annual percentage yield. No other rate may be stated.

(f) *Rounding and accuracy rules for rates and yields*—(1) *Rounding.* The annual percentage yield, the annual percentage yield earned, and the interest rate shall be rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places. For account disclosures, the interest rate may be expressed to more than two decimal places.

(2) *Accuracy.* The annual percentage yield (and the annual percentage yield earned) will be considered accurate if not more that one-twentieth of one percentage point (.05%) above or below the annual percentage yield (and the annual percentage yield earned) determined in accordance with the rules in appendix A of this part.

§ 230.4 Account disclosures.

(a) *Delivery of account disclosures*—(1) *Account opening.* A depository institution shall provide account disclosures to a consumer before an account is opened or a service is provided, whichever is earlier. An institution is deemed to have provided a service when a fee required to be disclosed is assessed. If the consumer is not present at the institution when the account is opened or the service is provided and has not already received the disclosures, the institution shall mail or deliver the disclosures no later than 10 business days after the account is opened or the service is provided, whichever is earlier.

(2) *Requests.* (i) A depository institution shall provide account disclosures to a consumer upon request. If the consumer is not present at the institution when a request is made, the institution shall mail or deliver the disclosures within a reasonable time after it receives the request.

(ii) In providing disclosures upon request, the institution may:

(A) Specify an interest rate and annual percentage yield that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and provide a telephone number consumers may call to obtain current rate information.

(B) State the maturity of a time account as a term rather than a date.

(b) *Content of account disclosures.* Account disclosures shall include the following, as applicable:

(1) *Rate information*—(i) *Annual percentage yield and interest rate.* The "annual percentage yield" and the "interest rate," using those terms, and for fixed-rate accounts the period of time the interest rate will be in effect.

(ii) *Variable rates.* For variable-rate accounts:

(A) The fact that the interest rate and annual percentage yield may change;

(B) How the interest rate is determined;

(C) The frequency with which the interest rate may change; and

(D) Any limitation on the amount the interest rate may change.

(2) *Compounding and crediting*—(i) *Frequency.* The frequency with which interest is compounded and credited.

(ii) *Effect of closing an account.* If consumers will forfeit interest if they close the account before accrued interest is credited, a statement that interest will not be paid in such cases.

(3) *Balance information*—(i) *Minimum balance requirements.* Any minimum balance required to:

(A) Open the account;

(B) Avoid the imposition of a fee; or

(C) Obtain the annual percentage yield disclosed.

Except for the balance to open the account, the disclosure shall state how the balance is determined for these purposes.

(ii) *Balance computation method.* An explanation of the balance computation method specified in § 230.7 of this part used to calculate interest on the account.

(iii) *When interest begins to accrue.* A statement of when interest begins to accrue on noncash deposits.

(4) *Fees.* The amount of any fee that may be imposed in connection with the account (or an explanation of how the fee will be determined) and the conditions under which the fee may be imposed.

(5) *Transaction limitations.* Any limitations on the number or dollar amount of withdrawals or deposits.

(6) *Features of time accounts.* For time accounts:

(i) *Time requirements.* The maturity date.

(ii) *Early withdrawal penalties.* A statement that a penalty will or may be imposed for early withdrawal, how it is calculated, and the conditions for its assessment.

(iii) *Withdrawal of interest prior to maturity.* If compounding occurs during the term and interest may be withdrawn prior to maturity, a statement that the annual percentage yield assumes interest remains on deposit until maturity and that a withdrawal will reduce earnings.

(iv) *Renewal policies.* A statement of whether or not the account will renew automatically at maturity. If it will, a statement of whether or not a grace period will be provided and, if so, the length of that period must be stated. If the account will not renew automatically, a statement of whether interest will be paid after maturity if the consumer does not renew the account must be stated.

(7) *Bonuses.* The amount or type of any bonus, when the bonus will be provided, and any minimum balance and time requirements to obtain the bonus.

(c) *Notice to existing account holders*—(1) *Notice of availability of disclosures.* Depository institutions shall provide a notice to consumers who receive periodic statements and who hold existing accounts of the type offered by the institution on March 21, 1993. The notice shall be included on or with the first periodic statement sent on or after March 21, 1993 (or on or with the first periodic statement for a statement cycle beginning on or after that date). The notice shall state that consumers may request account disclosures containing terms, fees, and rate information for their account. In responding to such a request, institutions shall provide disclosures in accordance with paragraph (a)(2) of this section.

(2) *Alternative to notice.* As an alternative to the notice described in paragraph (c)(1) of this section, institutions may provide account disclosures to consumers. The disclosures may be provided either with a periodic statement or separately, but must be sent no later than when the periodic statement described in paragraph (c)(1) is sent.

§ 230.5 Subsequent disclosures.

(a) *Change in terms*—(1) *Advance notice required.* A depository institution shall give advance notice to affected consumers of any change in a term required to be disclosed under § 230.4(b) of this part if the change may reduce the annual percentage yield or adversely affect the consumer. The notice shall include the effective date of the change. The notice shall be mailed or delivered at least 30 calendar days before the effective date of the change.

(2) *No notice required.* No notice under this section is required for:

(i) *Variable-rate changes.* Changes in the interest rate and corresponding changes in the annual percentage yield in variable-rate accounts.

(ii) *Check printing fees.* Changes in fees assessed by third parties for check printing.

(iii) *Short-term time accounts.* Changes in any term for time accounts with maturities of one month or less.

(b) *Notice before maturity for time accounts longer than one month that renew automatically.* For time accounts

with a maturity longer than one month that renew automatically at maturity, institutions shall provide the disclosures described below before maturity. The disclosures shall be mailed or delivered at least 30 calendar days before maturity of the existing account. Alternatively, the disclosures may be mailed or delivered at least 20 calendar days before the end of the grace period on the existing account, provided a grace period of at least five calendar days is allowed.

(1) *Maturities of longer than one year.* If the maturity is longer than one year, the institution shall provide account disclosures set forth in § 230.4(b) of this part for the new account, along with the date the existing account matures. If the interest rate and annual percentage yield that will be paid for the new account are unknown when disclosures are provided, the institution shall state that those rates have not yet been determined, the date when they will be determined, and a telephone number consumers may call to obtain the interest rate and the annual percentage yield that will be paid for the new account.

(2) *Maturities of one year or less but longer than one month.* If the maturity is one year or less but longer than one month, the institution shall either:

(i) Provide disclosures as set forth in paragraph (b)(1) of this section; or

(ii) Disclose to the consumer:

(A) The date the existing account matures and the new maturity date if the account is renewed;

(B) The interest rate and the annual percentage yield for the new account if they are known (or that those rates have not yet been determined, the date when they will be determined, and a telephone number the consumer may call to obtain the interest rate and the annual percentage yield that will be paid for the new account); and

(C) Any difference in the terms of the new account as compared to the terms required to be disclosed under § 230.4(b) of this part for the existing account.

(c) *Notice for time accounts one month or less that renew automatically.* For time accounts with a maturity one month or less that renew automatically at maturity, institutions shall disclose any difference in the terms of the new account as compared to the terms required to be disclosed under § 230.4(b) of this part for the existing account, other than a change in the interest rate and corresponding change in the annual percentage yield. The notice shall be mailed or delivered within a reasonable time after the renewal.

(d) *Notice before maturity for time accounts longer than one year that do not renew automatically.* For time accounts with a maturity longer than one year that do not renew automatically at maturity, institutions shall disclose to consumers the maturity date and whether interest will be paid after maturity. The disclosures shall be mailed or delivered at least 10 calendar days before maturity of the existing account.

§ 230.6 Periodic statement disclosures.

(a) *General rule.* If a depository institution mails or delivers a periodic statement, the statement shall include the following disclosures:

(1) *Annual percentage yield earned.* The "annual percentage yield earned" during the statement period, using that term, calculated according to the rules in Appendix A of this part.

(2) *Amount of interest.* The dollar amount of interest earned during the statement period.

(3) *Fees imposed.* Fees required to be disclosed under § 230.4(b)(4) of this part that were debited to the account during the statement period. The dollar amounts of the fees shall be itemized by type and dollar amounts.

(4) *Length of period.* The total number of days in the statement period, or the beginning and ending dates of the period.

(b) *Special rule for average daily balance method.* In making the disclosures described in paragraph (a) of this section, institutions that use the average daily balance method and that calculate interest for a period other than the statement period shall calculate and disclose the annual percentage yield earned and amount of interest earned based on that period rather than the statement period. The information in paragraph (a)(4) of this section shall be stated for that period as well as for the statement period.

§ 230.7 Payment of interest.

(a) *Permissible methods*—(1) *Balance on which interest is calculated.* Institutions shall calculate interest on the full amount of principal in an account for each day by use of either the daily balance method or the average daily balance method.[1]

(2) *Determination of minimum balance to earn interest.* An institution shall use the same method to determine any minimum balance required to earn interest as it uses to determine the balance on which interest is calculated. An institution may use an additional method that is unequivocally beneficial to the consumer.

(b) *Compounding and crediting policies.* This section does not require institutions to compound or credit interest at any particular frequency.

(c) *Date interest begins to accrue.* Interest shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act (12 U.S.C. 4005 *et seq.*) and implementing Regulation CC (12 CFR part 229). Interest shall accrue until the day funds are withdrawn.

§ 230.8 Advertising.

(a) *Misleading or inaccurate advertisements.* An advertisement shall not be misleading or inaccurate and shall not misrepresent a depository institution's deposit contract. An advertisement shall not refer to or describe an account as "free" or "no cost" (or contain a similar term) if any maintenance or activity fee may be imposed on the account. The word "profit" shall not be used in referring to interest paid on an account.

(b) *Permissible rates.* If an advertisement states a rate of return, it shall state the rate as an "annual percentage yield" using that term. (The abbreviation "APY" may be used provided the term "annual percentage yield" is stated at least once in the advertisement.) The advertisement shall not state any other rate, except that the "interest rate," using that term, may be stated in conjunction with, but not more conspicuously than, the annual percentage yield to which it relates.

(c) *When additional disclosures are required.* Except as provided in paragraph (e) of this section, if the annual percentage yield is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) *Variable rates.* For variable-rate accounts, a statement that the rate may change after the account is opened.

(2) *Time annual percentage yield is offered.* The period of time the annual percentage yield will be offered, or a statement that the annual percentage yield is accurate as of a specified date.

(3) *Minimum balance.* The minimum balance required to obtain the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier shall be stated in close proximity and with equal prominence to the applicable annual percentage yield.

(4) *Minimum opening deposit.* The minimum deposit required to open the

[1] Institutions shall calculate interest by use of a daily rate of at least 1/365 of the interest rate. In a leap year a daily rate of 1/366 of the interest rate may be used.

account, if it is greater than the minimum balance necessary to obtain the advertised annual percentage yield.

(5) *Effect of fees.* A statement that fees could reduce the earnings on the account.

(6) *Features of time accounts.* For time accounts:

(i) *Time requirements.* The term of the account.

(ii) *Early withdrawal penalties:* A statement that a penalty will or may be imposed for early withdrawal.

(d) *Bonuses.* Except as provided in paragraph (e) of this section, if a bonus is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) The "annual percentage yield," using that term;

(2) The time requirement to obtain the bonus;

(3) The minimum balance required to obtain the bonus;

(4) The minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and

(5) When the bonus will be provided.

(e) *Exemption for certain advertisements.* If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4), and (d)(5) of this section:

(1) Broadcast or electronic media, such as television or radio;

(2) Outdoor media, such as billboards;

(3) Telephone response machines; or

(4) Lobby boards inside a depository institution or deposit broker (provided they contain a notice advising consumers to contact an employee for further information).

§ 230.9 Enforcement and record retention.

(a) *Administrative enforcement.* Section 270 of the act contains the provisions relating to administrative sanctions for failure to comply with the requirements of the act and this part. Compliance is enforced by the agencies listed in that section.

(b) *Civil liability.* Section 271 of the act contains the provisions relating to civil liability for failure to comply with the requirements of the act and this part.

(c) *Record retention.* A depository institution shall retain evidence of compliance with this part for a minimum of two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing this part may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 270 of the act.

Appendix A to Part 230—Annual Percentage Yield Calculation

The annual percentage yield measures the total amount of interest paid on an account based on the interest rate and the frequency of compounding.[1] The annual percentage yield is expressed as an annualized rate, based on a 365-day year.[2] Part I of this appendix discusses the annual percentage yield calculations for account disclosures and advertisements, while Part II discusses annual percentages yield earned calculations for periodic statements.

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

In general, the annual percentage yield for account disclosures under §§ 230.4 and 230.5 and for advertising under § 230.8 is an annualized rate that reflects the relationship between the amount of interest that would be earned by the consumer for the term of the account and the amount of principal used to calculate that interest. Special rules apply to accounts with tiered and stepped interest rates.

A. General Rules

The annual percentage yield shall be calculated by the formula shown below. Institutions shall calculate the annual percentage yield based on the actual number of days in the term of the account. For accounts without a stated maturity date (such as a typical savings or transaction account), the calculation shall be based on an assumed term of 365 days. In determining the total interest figure to be used in the formula, institutions shall assume that all principal and interest remain on deposit for the entire term and that no other transactions (deposits or withdrawals) occur during the term.[3] For time accounts that are offered in multiples of months, institutions may base the number of days on either the actual number of days during the applicable period, or the number of days that would occur for any actual sequence of that many calendar months. If institutions choose to use the latter rule, they must use the same number of days to calculate the dollar amount of interest earned on the account that is used in the annual percentage yield formula (where "Interest" is divided by "Principal").

The annual percentage yield is calculated by use of the following general formula ("APY" is used for convenience in the formulas):

$$APY = 100\left[\left(1 + \frac{Interest}{Principal}\right)^{\left(\frac{365}{Days\ in\ term}\right)} - 1\right]$$

"Principal" is the amount of funds assumed to have been deposited at the beginning of the account.

"Interest" is the total dollar amount of interest earned on the Principal for the term of the account.

"Days in term" is the actual number of days in the term of the account. When the "days in term" is 365 (that is, where the stated maturity is 365 days or where the account does not have a stated maturity), the annual percentage yield can be calculated by use of the following simple formula:

$$APY = 100\ (Interest/Principal)$$

Examples

(1) If an institution pays $61.68 in interest for a 365-day year on $1,000 deposited into a NOW account, using the general formula above, the annual percentage yield is 6.17%:

$$APY = 100[(1 + 61.68/1,000)^{(365/365)} - 1]$$
$$APY = 6.17\%$$

Or, using the simple formula above (since, as an account without a stated term, the term is deemed to be 365 days):

$$APY = 100(61.68/1,000)$$
$$APY = 6.17\%$$

(2) If an institution pays $30.37 in interest on a $1,000 six-month certificate of deposit (where the six-month period used by the institution contains 182 days), using the general formula above, the annual percentage yield is 6.18%:

$$APY = 100[(1 + 30.37/1,000)^{(365/182)} - 1]$$
$$APY = 6.18\%$$

B. Stepped-Rate Accounts (Different Rates Apply in Succeeding Periods)

For accounts with two or more interest rates applied in succeeding periods (where the rates are known at the time the account is opened), an institution shall assume each interest rate is in effect for the length of time provided for in the deposit contract.

Examples

(1) If an institution offers a $1,000 6-month certificate of deposit on which it pays a 5% interest rate, compounded daily, for the first three months (which contain 91 days), and a 5.5% interest rate, compounded daily, for the next three months (which contain 92 days), the total interest for six months is $26.68 and, using the general formula above, the annual percentage yield is 5.39%:

$$APY = 100[(1 + 26.68/1,000)^{(365/183)} - 1]$$
$$APY = 5.39\%$$

(2) If an institution offers a $1,000 two-year certificate of deposit on which it pays a 6% interest rate, compounded daily, for the first year, and a 6.5% interest rate, compounded daily, for the next year, the total interest for two years is $133.13, and, using the general formula above, the annual percentage yield is 6.45%:

$$APY = 100[(1 + 133.13/1,000)^{(365/730)} - 1]$$
$$APY = 6.45\%$$

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[1] The annual percentage yield reflects only interest and does not include the value of any bonus (or other consideration worth $10 or less) that may be provided to the consumer to open, maintain, increase or renew an account. Interest or other earnings are not to be included in the annual percentage yield if such amounts are determined by circumstances that may or may not occur in the future.

[2] Institutions may calculate the annual percentage yield based on a 365-day or a 366-day year in a leap year.

[3] This assumption shall not be used if an institution requires, as a condition of the account, that consumers withdraw interest during the term. In such a case, the interest (and annual percentage yield calculation) shall reflect that requirement.

C. Variable-Rate Accounts

For variable-rate accounts without an introductory premium or discounted rate, an institution must base the calculation only on the initial interest rate in effect when the account is opened (or advertised), and assume that this rate will not change during the year.

Variable-rate accounts with an introductory premium (or discount) rate must be calculated like a stepped-rate account. Thus, an institution shall assume that: (1) The introductory interest rate is in effect for the length of time provided for in the deposit contract; and (2) the variable interest rate that would have been in effect when the account is opened or advertised (but for the introductory rate) is in effect for the remainder of the year. If the variable rate is tied to an index, the index-based rate in effect at the time of disclosure must be used for the remainder of the year. If the rate is not tied to an index, the rate in effect for existing consumers holding the same account (who are not receiving the introductory interest rate) must be used for the remainder of the year.

For example, if an institution offers an account on which it pays a 7% interest rate, compounded daily, for the first three months (which, for example, contain 91 days), while the variable interest rate that would have been in effect when the account was opened was 5%, the total interest for a 365-day year for a $1,000 deposit is $56.52 (based on 91 days at 7% followed by 274 days at 5%). Using the simple formula, the annual percentage yield is 5.65%:

APY = 100(56.52/1,000)
APY = 5.65%

D. Tiered-Rate Accounts (Different Rates Apply to Specified Balance Levels)

For accounts in which two or more interest rates paid on the account are applicable to specified balance levels, the institution must calculate the annual percentage yield in accordance with the method described below that it uses to calculate interest. In all cases, an annual percentage yield (or a range of annual percentage yields, if appropriate) must be disclosed for each balance tier.

For purposes of the examples discussed below, assume the following:

Interest rate (percent)	Deposit balance required to earn rate
5.25	Up to but not exceeding $2,500.
5.50	Above $2,500 but not exceeding $15,000.
5.75	Above $15,000.

Tiering Method A. Under this method, an institution pays on the full balance in the account the stated interest rate that corresponds to the applicable deposit tier. For example, if a consumer deposits $8,000, the institution pays the 5.50% interest rate on the entire $8,000.

When this method is used to determine interest, only one annual percentage yield will apply to each tier. Within each tier, the annual percentage yield will not vary with the amount of principal assumed to have been deposited.

For the interest rates and deposit balances assumed above, the institution will state three annual percentage yields—one corresponding to each balance tier. Calculation of each annual percentage yield is similar for this type of account as for accounts with a single interest rate. Thus, the calculation is based on the total amount of interest that would be received by the consumer for each tier of the account for a year and the principal assumed to have been deposited to earn that amount of interest.

First tier. Assuming daily compounding, the institution will pay $53.90 in interest on a $1,000 deposit. Using the general formula, for the first tier, the annual percentage yield is 5.39%:

$APY = 100[(1 + 53.90/1,000)^{(365/365)} - 1]$
APY = 5.39%

Using the simple formula:

APY = 100(53.90/1,000)
APY = 5.39%

Second tier. The institution will pay $452.29 in interest on an $8,000 deposit. Thus, using the simple formula, the annual percentage yield for the second tier is 5.65%:

APY = 100(452.29/8,000)
APY = 5.65%

Third tier. The institution will pay $1,183.61 in interest on a $20,000 deposit. Thus, using the simple formula, the annual percentage yield for the third tier is 5.92%:

APY = 100(1,183.61/20,000)
APY = 5.92%

Tiering Method B. Under this method, an institution pays the stated interest rate only on that portion of the balance within the specified tier. For example, if a consumer deposits $8,000, the institution pays 5.25% on $2,500 and 5.50% on $5,500 (the difference between $8,000 and the first tier cut-off of $2,500).

The institution that computes interest in this manner must provide a range that shows the lowest and the highest annual percentage yields for each tier (other than for the first tier, which, like the tiers in Method A, has the same annual percentage yield throughout). The low figure for an annual percentage yield range is calculated based on the total amount of interest earned for a year assuming the minimum principal required to earn the interest rate for that tier. The high figure for an annual percentage yield range is based on the amount of interest the institution would pay on the highest principal that could be deposited to earn that same interest rate. If the account does not have a limit on the maximum amount that can be deposited, the institution may assume any amount.

For the tiering structure assumed above, the institution would state a total of five annual percentage yields—one figure for the first tier and two figures stated as a range for the other two tiers.

First tier. Assuming daily compounding, the institution would pay $53.90 in interest on a $1,000 deposit. For this first tier, using the simple formula, the annual percentage yield is 5.39%:

APY = 100(53.90/1,000)
APY = 5.39%

Second tier. For the second tier, the institution would pay between $134.75 and $841.45 in interest, based on assumed balances of $2,500.01 and $15,000, respectively. For $2,500.01, interest would be figured on $2,500 at 5.25% interest rate plus interest on $.01 at 5.50%. For the low end of the second tier, therefore, the annual percentage yield is 5.39%, using the simple formula:

APY = 100(134.75/2,500)
APY = 5.39%

For $15,000, interest is figured on $2,500 at 5.25% interest rate plus interest on $12,500 at 5.50% interest rate. For the high end of the second tier, the annual percentage yield, using the simple formula, is 5.61%:

APY = 100(841.45/15,000)
APY = 5.61%

Thus, the annual percentage yield range for the second tier is 5.39% to 5.61%.

Third tier. For the third tier, the institution would pay $841.45 in interest on the low end of the third tier (a balance of $15,000.01). For $15,000.01, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $.01 at 5.75% interest rate. For the low end of the third tier, therefore, the annual percentage yield (using the simple formula) is 5.61%:

APY = 100 (841.45/15,000)
APY = 5.61%

Since the institution does not limit the account balance, it may assume any maximum amount for the purposes of computing the annual percentage yield for the high end of the third tier. For an assumed maximum balance amount of $100,000, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $85,000 at 5.75% interest rate. For the high end of the third tier, therefore, the annual percentage yield, using the simple formula, is 5.87%.

APY = 100 (5,871.79/100,000)
APY = 5.87%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.87%.

If the assumed maximum balance amount is $1,000,000 instead of $100,000, the institution would use $985,000 rather than $85,000 in the last calculation. In that case, for the high end of the third tier the annual percentage yield, using the simple formula, is 5.91%:

APY = 100 (59134.22/1,000,000)
APY = 5.91%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.91%.

Part II. Annual Percentage Yield Earned for Periodic Statements

The annual percentage yield earned for periodic statements under § 230.6(a) is an annualized rate that reflects the relationship between the amount of interest actually earned on the consumer's account during the statement period and the average daily balance in the account for the statement period. Pursuant to § 230.6(b), however, if an institution uses the average daily balance

method and calculates interest for a period other than the statement period, the annual percentage yield earned shall reflect the relationship between the amount of interest earned and the average daily balance in the account for that other period.

The annual percentage yield earned shall be calculated by using the following formula ("APY Earned" is used for convenience in the formulas):

$$APY\ Earned = 100\ [(1 + Interest\ earned/Balance)^{(365/Days\ in\ period)} - 1]$$

"Balance" is the average daily balance in the account for the period.

"Interest earned" is the actual amount of interest earned on the account for the period.

"Days in period" is the actual number of days for the period.

Examples

(1) Assume an institution calculates interest for the statement period (and uses either the daily balance or the average daily balance method), and the account has a balance of $1,500 for 15 days and a balance of $500 for the remaining 15 days of a 30-day statement period. The average daily balance for the period is $1,000. The interest earned (under either balance computation method) is $5.25 during the period. The annual percentage yield earned (using the formula above) is 6.58%:

$$APY\ Earned = 100\ [(1 + 5.25/1,000)^{(365/30)} - 1]$$
$$APY\ Earned = 6.58\%$$

(2) Assume an institution calculates interest on the average daily balance for the calendar month and provides periodic statements that cover the period from the 16th of one month to the 15th of the next month. The account has a balance of $2,000 September 1 through September 15 and a balance of $1,000 for the remaining 15 days of September. The average daily balance for the month of September is $1,500, which results in $6.50 in interest earned for the month.The annual percentage yield earned for the month of September would be shown on the periodic statement covering September 16 through October 15. The annual percentage yield earned (using the formula above) is 6.69%:

$$APY\ Earned = 100\ [(6.50/1,500)^{(365/30)} - 1]$$
$$APY\ Earned = 6.69\%$$

(3) Assume an institution calculates interest on the average daily balance for a quarter (for example, the calendar months of September through November), and provides monthly periodic statements covering calendar months. The account has a balance of $1,000 throughout the 30 days of September, a balance of $2,000 throughout the 31 days of October, and a balance of $3,000 throughout the 30 days of November. The average daily balance for the quarter is $2,000, which results in $21 in interest earned for the quarter. The annual percentage yield earned would be shown on the periodic statement for November. The annual percentage yield earned (using the formula above) is 4.28%:

$$APY\ Earned = 100\ [(1 + 21/2,000)^{(365/91)} - 1]$$
$$APY\ Earned = 4.28\%$$

Appendix B to Part 230—Model Clauses and Sample Forms

Table of contents

B–1—Model Clauses for Account Disclosures (Section 230.4(b))
B–2—Model Clauses for Change in Terms (Section 230.5(a))
B–3—Model Clauses for Pre-Maturity Notices for Time Accounts (Section 230.5(b)(2) and 230.5(d))
B–4—Sample Form (Multiple Accounts)
B–5—Sample Form (Now Account)
B–6—Sample Form (Tiered Rate Money Market Account)
B–7—Sample Form (Certificate of Deposit)
B–8—Sample Form (Certificate of Deposit Advertisement)
B–9—Sample Form (Money Market Account Advertisement)

B–1—Model Clauses for Account Disclosures

(a) Rate information

(i) Fixed-rate accounts

The interest rate on your account is ____% with an annual percentage yield of ____%. You will be paid this rate [for (time period)/until (date)/ for at least 30 calendar days].

(ii) Variable-rate accounts

The interest rate on your account is ____% with an annual percentage yield of ____%.

Your interest rate and annual percentage yield may change.

Determination of Rate

The interest rate on your account is based on (name of index) [plus/minus a margin of _____].

or

At our discretion, we may change the interest rate on your account.

Frequency of Rate Changes

We may change the interest rate on your account [every (time period)/at any time].

Limitations on Rate Changes

The interest rate for your account will never change by more than ____% each (time period).

The interest rate will never by [less/more] than ____%.

or

The interest rate will never [exceed____% above/drop more than ____% below] the interest rate initially disclosed to you.

(iii) Stepped-rate accounts

The initial interest rate for your account is ____%. You will be paid this rate [for (time period)/until (date)]. After that time, the interest rate for your account will be ____%, and you will be paid this rate [for (time period)/until (date)]. The annual percentage yield for your account is ____%.

(iv) *Tiered-rate accounts*

Tiering Method A

• If your [daily balance/average daily balance] is $____ or more, the interest rate paid on the entire balance in your account will be ____% with an annual percentage yield of ____%.

• If your [daily balance/average daily balance] is more than $____, but less than $____, the interest rate paid on the entire balance in your account will be ____% with an annual percentage yield of ____%.

• If your [daily balance/average daily balance] is $____ or less, the interest rate paid on the entire balance will be ____% with an annual percentage yield of ____%.

Tiering Method B

• An interest rate of ____% will be paid only for that portion of your [daily balance/average daily balance] that is greater than $____. The annual percentage yield for this tier will range from ____% to ____%, depending on the balance in the account.

• An interest rate of ____% will be paid only for that portion of your [daily balance/average daily balance] that is greater than $____, but less than $____. The annual percentage yield for this tier will range from ____% to ____%, depending on the balance in the account.

• If your [daily balance/average daily balance] is $____ or less, the interest rate paid on the entire balance will be ____% with an annual percentage yield of ____%.

(b) Compounding and crediting

(i) Frequency

Interest will be compounded [on a ____ basis/every (time period)]. Interest will be credited to your account [on a ____ basis/every (time period)].

(ii) Effect of closing an account

If you close your account before interest is credited, you will not receive the accrued interest.

(c) Minimum balance requirements

(i) To open the account

You must deposit $_____ to open this account.

(ii) To avoid imposition of fees

A minimum balance fee of $_____ will be imposed every (time period) if the balance in the account falls below $_____ any day of the (time period).

A minimum balance fee of $_____ will be imposed every (time period) if the average daily balance for the (time period) falls below $_____. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(iii) To obtain the annual percentage yield disclosed

You must maintain a minimum balance of $_____ in the account each day to obtain the disclosed annual percentage yield.

You must maintain a minimum average daily balance of $_____ to obtain the disclosed annual percentage yield. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(d) Balance computation method

(i) Daily balance method

We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

(ii) Average daily balance method

We use the average daily balance method to calculate interest on your account. This method applies a periodic rate to the average daily balance in the account for the period.

The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) Accrual of interest on noncash deposits

Interest begins to accrue no later than the business day we receive credit for the deposit of noncash items (for example, checks).

or

Interest begins to accrue on the business day you deposit noncash items (for example, checks).

(f) Fees

The following fees may be assessed against your account:

_____

$ _____

_____

$ _____

_____

$ _____

_____

(conditions for imposing fee)

$ _____

_____

____% of _____

(g) Transaction limitations

The minimum amount you may [withdraw/write a check for] is $_____.

You may make _____ [deposits into/withdrawals from] your account each (time period).

You may not make [deposits into/withdrawals from] your account until the maturity date.

(h) Disclosures relating to time accounts

(i) Time requirements

Your account will mature on (date).

Your account will mature in (time period).

(ii) Early withdrawal penalties

We [will/may] impose a penalty if you withdraw [any/all] of the [deposited funds/principal] before the maturity date. The fee imposed will equal _____ days/week[s]/month[s] of interest.

or

We [will/may] impose a penalty of $_____ if you withdraw [any/all] of the [deposited funds/principal] before the maturity date.

If you withdraw some of your funds before maturity, the interest rate for the remaining funds in your account will be _____% with an annual percentage yield of _____%.

(iii) Withdrawal of interest prior to maturity

The annual percentage yield assumes interest will remain on deposit until maturity. A withdrawal will reduce earnings.

(iv) Renewal policies

(1) Automatically renewable time accounts

This account will automatically renew at maturity.

You will have [_____ calendar/business] days after the maturity date to withdraw funds without penalty.

or

There is no grace period following the maturity of this account to withdraw funds without penalty.

(2) Non-automatically renewable time accounts

This account will not renew automatically at maturity. If you do not renew the account, your deposit will be placed in [an interest-bearing/a noninterest-bearing] account.

(i) Bonuses

You will [be paid/receive] [$_____ / (description of item)] as a bonus [when you open the account/on (date) _____].

You must maintain a minimum [daily balance/average daily balance] of $_____ to obtain the bonus.

To earn the bonus, [$_____ /your entire principal] must remain on deposit [for (time period)/until (date)_____].

B–2—Model Clauses for Change in Terms

On (date), the cost of (type of fee) will increase to $_____.

On (date), the interest rate on your account will decrease to _____% with an annual percentage yield of _____%.

On (date), the minimum [daily balance/average daily balance] required to avoid imposition of a fee will increase to $_____.

B–3—Model Clauses for Pre-Maturity Notices for Time Accounts

(a) Automatically renewable time accounts with maturities of one year or less but longer than one month

Your account will mature on (date).

If the account renews, the new maturity date will be (date).

The interest rate for the renewed account will be _____% with an annual percentage yield of _____%.

or

The interest rate and annual percentage yield have not yet been determined. They will be available on (date). Please call (phone number) to learn the interest rate and annual percentage yield for your new account.

(b) Non-automatically renewable time accounts with maturities longer than one year

Your account will mature on (date).

If you do not renew the account, interest [will/will not] be paid after maturity.

BILLING CODE 6210–01–M

B-4 -- SAMPLE FORM (MULTIPLE ACCOUNTS)

BANK ABC

DISCLOSURE OF ACCOUNT TERMS

This disclosure contains information about your:

X NOW Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

___ Passbook Savings Account

- The interest rate on your account will be paid for at least 30 days.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Additional disclosures for your account are included on the attached sheets.

__ Money Market Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate on your account will never be less than 3.00%.
- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

___ Certificates of Deposit

- The interest rate for your account will be paid until the maturity date of your certificate (_____).
- Interest is compounded daily and will be credited to your account monthly.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- This account will automatically renew at maturity. You will have ten (10) calendar days from the maturity date to withdraw your funds without being charged a penalty.
- After the account is opened, you may not make deposits into or withdrawals from this account until the maturity date.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.
- If any of the deposit is withdrawn before the maturity date, a penalty as shown below will be imposed:

Term	Early Withdrawal Penalty
3-month CD	30 days interest
6-month CD	90 days interest
1-year CD	120 days interest
2-year CD	180 days interest

Additional disclosures for your account are included on the attached sheets.

(Fee Schedule Insert)

BANK ABC
FEE SCHEDULE

NOW Account

- Monthly minimum balance fee if the daily balance drops below $ 500 any day of the month . . . . . $ 7.50

Passbook Savings Account

- Monthly minimum balance fee if the daily balance drops below $ 100 any day of the month . . . . . $ 6.00
- You may make three (3) withdrawals per quarter
  Each subsequent withdrawal . . . . . $ 2.00

Money Market Account

- Monthly minimum balance fee if the daily balance drops below $ 1,000 any day of the month . . . . . $ 5.00

Other Account Fees

- Deposited checks returned . . . . . $ 5.00
- Balance inquiries (at a branch or at an ATM) . . . . . $ 1.00
- Check printing ◆ . . . . . (Fee depends on style of check ordered)
- Your check returned for insufficient funds (per check) ◆ . . . . . $ 16.00
- Stop payment request (per request) ◆ . . . . . $ 12.50
- Certified check (per check) ◆ . . . . . $ 10.00

◆ Fee does not apply to Passbook Savings Accounts or Certificates of Deposit.

Additional disclosures for your account are included on the attached sheet.

(Rate Sheet Insert)

BANK ABC
RATE SHEET

ACCOUNT TYPE	MINIMUM DEPOSIT TO OPEN ACCOUNT	MINIMUM BALANCE* TO OBTAIN ANNUAL PERCENTAGE YIELD	INTEREST RATE	ANNUAL PERCENTAGE YIELD
NOW	$ 500	$ 2,500	4.00%	4.08%
PASSBOOK SAVINGS	$ 100	$ 500	3.50%	3.56%
MONEY MARKET	$ 1,000	$ 1,000	4.15%	4.24%
3-MONTH CD	$ 1,000	$ 1,000	4.20%	4.29%
6-MONTH CD	$ 1,000	$ 1,000	4.25%	4.34%
1-YEAR CD	$ 1,000	$ 1,000	5.20%	5.34%
2-YEAR CD	$ 1,000	$ 1,000	5.80%	5.97%

* Daily balance (the amount of principal in the account each day)

B-5 – SAMPLE FORM (NOW ACCOUNT)

BANK XYZ

DISCLOSURE OF INTEREST, FEES AND ACCOUNT TERMS

NOW ACCOUNT

Fee schedule

- **Monthly minimum balance fee if the daily balance drops below $1,000 any day of the month . . . . . $ 7.00**
- **Fee to stop payment of a check . . . . . $ 12.50**
- **Fee for check returns (insufficient funds – per check) . . . . . $ 16.00**
- **Certified check (per check) . . . . . $ 10.00**
- **Fee for initial check printing (per 200) . . . . . $ 12.00**

(Cost for check printing varies depending on the style of checks ordered.)

Rate information

- The interest rate for your account is 4.00 % with an annual percentage yield of 4.08 %. Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2% each year.

Minimum balance requirements

- You must deposit $500 to open this account.
- You must maintain a minimum balance of $2,500 in the account each day to obtain the annual percentage yield listed above.

Balance computation method

- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Compounding and crediting

- Interest for your account will be compounded daily and credited to your account on the last day of each month.

Accrual of interest on deposits other than cash

- Interest begins to accrue on the business day you deposit noncash items (for example, checks).

B-6 – SAMPLE FORM (TIERED-RATE MONEY MARKET ACCOUNT)

BANK ABC

DISCLOSURE OF INTEREST, FEES AND ACCOUNT TERMS

MONEY MARKET ACCOUNT

Fee schedule

- Check returned for insufficient funds (per check) $16.00
- Stop payment request (per request) $12.50
- Certified check (per check) $10.00
- Check printing . . . . . (Fee depends on style of checks ordered)

Rate information

- If your daily balance is $15,000 or more, the interest rate paid on the entire balance in your account will be 5.75 % with an annual percentage yield of 5.92 %.
- If your daily balance is more than $2,500, but less than $15,000, the interest rate paid on the entire balance in your account will be 5.50 % with an annual percentage yield of 5.65 %.
- If your daily balance is $2,500 or less, the interest rate paid on the entire balance will be 5.25 % with an annual percentage yield of 5.39 %.
- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month.

Minimum balance requirements

- You must deposit $1,000 to open this account.
- A minimum balance fee of $5.00 will be imposed every month if the balance in your account falls below $1,000 any day of the month.

Balance computation method

- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Transaction limitations

- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.

B-7 -- SAMPLE FORM (CERTIFICATE OF DEPOSIT)

XYZ SAVINGS BANK
1 YEAR CERTIFICATE OF DEPOSIT

Rate information

The interest rate for your account is 5.20 % with an annual percentage yield of 5.34 %. You will be paid this rate until the maturity date of the certificate. Your certificate will mature on September 30, 1993. The annual percentage yield assumes interest remains on deposit until maturity. A withdrawal will reduce earnings.

Interest for your account will be compounded daily and credited to your account on the last day of each month.

Interest begins to accrue on the business day you deposit any noncash item (for example, checks).

Minimum balance requirements

You must deposit $1,000 to open this account.

You must maintain a minimum balance of $1,000 in your account every day to obtain the annual percentage yield listed above.

Balance computation method

We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Transaction limitations

After the account is opened, you may not make deposits into or withdrawals from the account until the maturity date.

Early withdrawal penalty

If you withdraw any principal before the maturity date, a penalty equal to three montns interest will be charged to your account.

Renewal policy

This account will be automatically renewed at maturity. You have a grace period of ten (10) calendar days after the maturity date to withdraw the funds without being charged a penalty.

B-8 -- SAMPLE FORM (CERTIFICATE OF DEPOSIT ADVERTISEMENT)

BANK XYZ

ALWAYS OFFERS YOU COMPETITIVE CD RATES!!

CERTIFICATES OF DEPOSIT	ANNUAL PERCENTAGE YIELD (APY)
5 YEAR	6.31%
4 YEAR	6.07%
3 YEAR	5.72%
2 YEAR	5.52%
1 YEAR	4.54%
6 MONTH	4.34%
90 DAY	4.21%
	APYs are offered on accounts opened from 5/9/93 through 5/18/93.

The minimum balance to open an account and obtain the APY is $1,000.
A penalty may be imposed for early withdrawal.

For more information call:

202-123-1234

B-9 -- SAMPLE FORM (MONEY MARKET ACCOUNT ADVERTISEMENT)

BANK XYZ

ALWAYS OFFERS YOU COMPETITIVE RATES!!

MONEY MARKET ACCOUNTS	ANNUAL PERCENTAGE YIELD (APY)
Accounts with a balance of $5,000 or less	5.07%*
Accounts with a balance over $5,000	5.57%*
APYs are accurate as of April 30, 1993	*The rates may change after the account is opened.

Fees could reduce the earnings on the account.

For more information call:

202-123-1234

BILLING CODE 6210-01-C

Appendix C to Part 230—Effect on State Laws

(a) Inconsistent Requirements

State law requirements that are inconsistent with the requirements of the act and this part are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a depository institution to make disclosures or take actions that contradict the requirements of the federal law. A state law is also contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, requires the use of a term different from that required in the federal law to describe the same item, or permits a method of calculating interest on an account different from that required in the federal law.

(b) Preemption Determinations

A depository institution, state, or other interested party may request the Board to determine whether a state law requirement is inconsistent with the federal requirements. A request for a determination shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the **Federal Register**, with an opportunity for public comment unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision. Notice of a final determination will be published in the **Federal Register** and furnished to the party who made the request and to the appropriate state official.

(c) Effect of Preemption Determinations

After the Board determines that a state law is inconsistent, a depository institution may not make disclosures using the inconsistent term or take actions relying on the inconsistent law.

(d) Reversal of Determination

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law. Notice of reversal of a determination will be published in the **Federal Register** and a copy furnished to the appropriate state official.

Appendix D to Part 230—Issuance of Staff Interpretations

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this part. These interpretations provide the protections afforded under section 271(f) of the act. Except in unusual circumstances, interpretations will not be issued separately but will be incorporated in an official commentary to this part, which will be amended periodically. No staff interpretations will be issued approving depository institutions' forms, statements, or calculation tools or methods.

By order of the Board of Governors of the Federal Reserve System, September 11, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-22478 Filed 9-18-92; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052-AA09

Organization; Director Compensation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) by the Farm Credit Administration Board (Board) adopts a final rule amending 12 CFR part 611 in order to reflect amendments to the Farm Credit Act of 1971 (1971 Act) made by the Agricultural Credit Technical Corrections Act of 1988 (1988 Act).[1] The proposed rule was published for comment on June 16, 1992 (57 FR 26786). The amendment to § 611.400 authorizes Farm Credit System (FCS or System) banks to pay their directors fair and reasonable compensation that does not exceed the amount set forth in section 4.21 of the 1971 Act, as amended. The regulation, as amended, also requires FCS banks to disclose the amount of reimbursement that directors receive for travel, subsistence, and other related expenses separately from cash compensation in annual disclosures to shareholders and reports to the FCA.

EFFECTIVE DATE: The regulation shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444,

or

Richard A. Katz, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The 1988 Act amended the 1971 Act by: (1) Limiting compensation for each bank director to $15,000 per annum [2]; and (2) abolishing the district boards [3]. On June 16, 1992, the FCA proposed to amend § 611.400 to reflect amendments to the 1971 Act. More specifically, the FCA proposed to delete the provision of § 611.400(b)(2) that prohibits FCS banks from paying their directors more than $200 per day, and replace it with a new provision that authorizes FCS banks to pay their directors fair and reasonable compensation that does not exceed any limit set by the 1971 Act, as it may be amended from time to time. Other proposed amendments to § 611.400 included: (1) Replacing the terms "district boards" and "district directors" with "bank boards" and "bank directors" in paragraph (b) introductory paragraph, paragraph (b)(2), and the introductory paragraph of paragraph (c); and (2) changing the references to the 1971 Act in § 611.400 from "section 5.5" to "section 4.21."

The FCA also proposed to add a new paragraph (c)(6) to § 611.400 that would require each bank to disclose reimbursements of travel, subsistence, and other related expenses incurred by a director, both in disclosures to shareholders pursuant to § 620.5(i)(1) of this chapter, and in reports to the FCA. As explained in the preamble to the proposed regulation, reimbursable expenses are not considered compensation for the purposes of section 4.21 of the 1971 Act, which limits the amount of compensation for bank directors to $15,000 per year. However, FCS banks currently report compensation and reimbursable expenses paid to their directors as a lump sum on their call reports to FCA. Proposed § 611.400(c)(6) would enable both the FCA and the shareholders to identify director compensation distinctly from reimbursable expenses. The FCA also noted in the preamble to the proposed regulation that this amendment would allow the shareholders to determine whether the bank's reimbursement of travel, subsistence, and other related expenses is reasonable.

The only comment FCA received about the proposed regulations pertained to proposed paragraph (c)(6). The Farm Credit Council (FCC), with the endorsement of two Farm Credit Banks (FCBs), expressed strong objections to proposed § 611.400(c)(6), which requires disclosure of bank directors' reimbursable expenses. The commenter

[1] Public Law No. 100-399, 102 Stat. 989 (1988).

[2] Section 414 of the 1988 Act added section 4.21 to the 1971 Act.

[3] Section 409 of the 1988 Act repealed sections 5.1 through 5.6 of the 1971 Act.

asserts that commercial banks, savings associations, and credit unions are not required by their Federal regulators to disclose the amount of reimbursable expenses that they pay to their directors. The commenter also claims that the premise underlying § 611.400(c)(1) is not well founded because existing regulations and the FCA's enforcement powers are sufficient to prevent abuses. The FCC argues that the disclosure requirement in proposed § 611.400(c)(6) is "both unwarranted and an example of regulatory overkill."

The FCA disagrees with the commenter's arguments that § 611.400(c)(1) is regulatory overkill. Although the FCA often takes the approaches of other Federal bank regulatory agencies into consideration when it develops regulations, the FCA's obligation is to address particular issues in the context of statutory provisions that establish the characteristics of, and constraints on the FCS. Section 4.21 of the 1971 Act specifically limits the amount of compensation that FCS banks are authorized to pay their directors, while director compensation at other federally regulated financial institutions is not subject to similar statutory restrictions. The disclosure requirement is consistent with congressional concern over the impact of director costs on the borrower.

Reimbursable expenses are often a significant component of overall director costs. Past experience indicates that expenses may exceed compensation for some directors in the FCS. FCA believes that shareholders of FCS banks should be afforded the opportunity to review the reimbursement of expenses incurred by bank directors and to guard against excessive expenditures by their directors. Such a disclosure requirement is consistent with the shareholders' common law right to inspect the corporation's books and records, and emphasizes self-discipline, which may obviate the need for enforcement action.

The approach advocated by the FCA is consistent with the initiative for economic growth that the President of the United States unveiled on January 30, 1992. The President's initiative requires Federal agencies to review their regulations in order to: (1) Identify those regulations that impede economic growth; and (2) accelerate action on those regulations that promote growth. The President's initiative establishes five criteria for evaluating the impact of a regulation on economic growth. The FCA concludes that this regulation promotes economic growth by complying with two of these criteria. This regulation reduces reliance on command-and-control regulatory requirements and relies on market mechanisms by enhancing shareholder ability to contain costs at FCS banks.

As stated in the preamble to the proposed rule, the FCA withdrew its proposed rule published at 52 FR 43081 (November 9, 1987) because the proposed disclosure requirements are now covered by § 620.5(i)(1) of this chapter.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 is revised to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e); secs. 411 and 412 of Pub. L. 100–233; 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

Subpart D—Rules for Compensation of Board Members

2. Section 611.400 is amended by removing the words, "district directors" and adding in their place, "bank directors" in paragraph (b) introductory text and paragraph (b)(2); by removing the words, "$200 per day" and adding in their place, "limits established by the Farm Credit Act of 1971, as amended" in paragraph (b)(2); by adding the words "travel, subsistence, and other related" after the word "for" in paragraph (b)(3); by removing the words "and subsistence" and adding in their place, the words ", subsistence, and other related" in paragraph (b)(5); by removing the words "district board" and adding in their place, the words "bank board" each place it appears in paragraphs (b) introductory text and (c) introductory text; by revising paragraph (a); and by adding a new paragraph (c)(6) to read as follows:

§ 611.400 Compensation of Bank Board members.

(a) Farm Credit System banks are authorized to pay, in accordance with section 4.21 of the Farm Credit Act of 1971, as amended, fair and reasonable compensation to directors for services performed in an official capacity. No Farm Credit System bank shall compensate any director for rendering services on behalf of any other Farm Credit System institution or a cooperative of which the director is a member, or for performing other assignments of a nonofficial nature.

* * * * *

(c) * * *

(6) Such compensation and the aggregate amount of any reimbursement for expenses shall be disclosed to shareholders on an annual basis, in compliance with § 620.5(i)(1) of this chapter. Such disclosure, and any requisite reporting to the Farm Credit Administration, shall identify cash compensation paid to directors separately from the reimbursement of travel, subsistence, and other related expenses paid to each director.

Dated: September 14, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–22642 Filed 9–18–92; 8:45 am]

BILLING CODE 6705–01–M

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12 CFR Part 612

RIN 3052–AB08

Personnel Administration; Human Resources Policies, Retirement Plans

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) by the Farm Credit Administration Board (Board) adopts a final rule repealing the regulations in subpart A of part 612 relating to the human resources management practices, and retirement and thrift savings plans at all Farm Credit System (FCS or System) institutions. The proposed rule was published for comment on June 16, 1992, (57 FR 26787). The effect of this rule is to require System institutions to assume greater responsibility for developing human resources management policies consistent with safe and sound operation. The final regulation also makes a technical correction to § 612.2150(b)(5).

EFFECTIVE DATE: The regulation shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Richard A. Katz, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On June 16, 1992, the FCA proposed to repeal the regulations in subpart A of part 612 governing human resources management practices at all FCS institutions, including § 612.2110, which currently requires the FCA to give prior approval to the retirement and thrift savings plans in each Farm Credit System district. The FCA also proposed to make a technical correction to § 612.2150(b)(5).

Repeal of these regulations is in response to amendments in 1985 and 1990 to the Farm Credit Act of 1971 (Act). The Farm Credit Amendments Act of 1985 [1] (1985 Act) established a more arms-length relationship between the System and its regulator. The FCA believes that FCS institutions should assume a more active role in formulating the human resources policies that affect their employees, because the appropriate role of the FCA as a safety and soundness regulator is to exercise regulatory and examination authority rather than operational control. Because the Food, Agricultural, Conservation, and Trade Act of 1990 [2] (1990 Farm Bill) repealed provisions in the Act that required the FCA to approve the compensation and benefits for certain classes of System employees, agency prior approval of FCS district retirement and thrift savings plans is no longer necessary.

The FCA did not receive any comments about its proposal to repeal the regulations in subpart A of part 612. Accordingly, the FCA adopts its proposal, without change, as a final rule. Once the repeal of these regulations becomes effective, the FCA will rely upon its examination and enforcement powers under the Act to detect and prevent unsafe and unsound human resources management practices.

As noted in the preamble to the proposed regulations, FCS district retirement and thrift savings plans qualify as government pension plans under the Budget and Accounting Procedures Act of 1950, 31 U.S.C. 9502(1)(B)(iv), and section 414(d) of the Internal Revenue Code (IRC), 26 U.S.C. 424(d). Government pension plans are exempt from provisions in the Employee Retirement Income Security Act of 1974 (ERISA) that establish participation, vesting, and funding standards for private sector pension plans (See 29 U.S.C. 1001 *et seq.*, and the IRC, 26 U.S.C. 420(c)(1), 411(e)(1) and 412(h)). As a result, Federal agencies that regulate pension plans have minimal supervisory and regulatory authority over FCS district retirement and thrift savings plans. Since FCS districts will no longer submit their retirement and thrift savings plans to the agency for prior approval, it is possible that actions taken contrary to reasonable practice are not likely to be discovered until after contractual obligations have been created. The FCA emphasizes the responsibilities of FCS institutions to continue to act in a manner that promotes the best interests of the System, its employees, and its shareholders.

The repeal of this regulation is consistent with the initiative for economic growth that the President of the United States unveiled on January 30, 1992. The President's initiative requires Federal agencies to review their regulations in order to: (1) Identify those regulations that impede economic growth; and (2) accelerate action on those regulations that promote growth. The President's initiative establishes five criteria for evaluating the impact of a regulation on economic growth. The FCA concludes that this regulation promotes economic growth by removing a command-and-control requirement and relying on market mechanisms to address human resources management practices at System institutions. In particular, removal of the prior approval requirement saves time and money and allows the banks more control over internal management decisions.

The FCA received no comment about its proposal to make a technical correction to § 612.2150(b)(5), and therefore, this revision is now adopted as a final regulation.

List of Subjects in 12 CFR Part 612

Agriculture, Banks, banking, Conflict of interests, Rural areas.

For the reasons stated in the preamble, part 612 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 612—PERSONNEL ADMINISTRATION

1. The authority citation for part 612 is revised to read as follows:

Authority: Secs. 5.9, 5.17, 5.19 of the Farm Credit Act; 12 U.S.C. 2243, 2252, 2254.

Subpart A—[Removed]

2. Subpart A, consisting of §§ 612.2000 through 612.2110 and the subpart heading are removed in their entirety.

Subpart B—[Amended]

3. The heading of subpart B is removed.

§ 612.2150 [Amended]

4. Section 612.2150 is amended by removing the word "of" the third place it appears, and adding in its place, the word "or" in the first sentence of paragraph (b)(5).

Dated: September 14, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–22641 Filed 9–18–92; 8:45 am]

BILLING CODE 6705–01–M

[1] Public Law No. 99–305, 99 Stat. 1678 (1985).

[2] Public Law No. 101–624, 104 Stat. 3359 (1990).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 92–90]

RIN 1515–AA95

International, Landing Rights and User Fee Airports

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to set forth the circumstances in which permission to land at a landing rights airport may be denied or withdrawn and to set forth the circumstances in which status as a user fee airport may be terminated. The document also updates the list of designated user fee airports, and makes certain organizational or editorial changes to improve the layout of the regulations insofar as they deal specifically with international airports, landing rights airports and user fee airports.

EFFECTIVE DATE: November 20, 1992.

FOR FURTHER INFORMATION CONTACT: George Pruchniewski, Office of Inspection and Control (202–927–1312).

SUPPLEMENTARY INFORMATION:

Background

Part 122 of the Customs Regulations (19 CFR part 122), dealing with the entry and clearance of aircraft and their use in the transportation of persons and cargo, references three types or classes of airports at which such aircraft could land upon duly arriving from points outside the United States: international airports, landing rights airports, and user fee airports.

International airports, the majority of which are small or regional in nature,

are open to all aircraft for entry and clearance without charge by Customs (however, certain arrival and related user fees must be paid pursuant to part 24, Customs Regulations (19 CFR part 24)). Customs presence at such airports is required, and all aircraft arriving from foreign points have a right to land there without first obtaining Customs permission.

At landing rights airports, on the other hand, Customs must specifically give a party permission to land, which may be done either on a one-time basis, such as for a private aircraft, a charter, or other unscheduled flight, or on a recurring basis according to a fixed schedule approved by Customs, such as for a scheduled airline or a charter operator. Thus, a landing rights airport exists for the purpose of handling international traffic only to the extent that permission is specifically granted for one or more international flights to land there. Most of the major U.S. airports handling international traffic are, in fact, landing rights airports. In the case of an arrival at a landing rights airport located outside the limits of a port of entry, the owner, operator or person in charge of the aircraft given landing rights must pay any added charges incurred by Customs for inspecting the aircraft, passengers, employees and merchandise, except in the case of scheduled aircraft of a scheduled airline where a charge may be made only for the overtime expenses of Customs officers.

Unlike international airports, there is no specific requirement that landing rights airports provide office and other space, facilities and equipment, without cost, to Customs and other Federal agencies. Yet this has, nevertheless, traditionally been done on the basis (1) that the presence of Customs and other Federal officers at the airports operates as a convenience both to the airports and aircraft, as well as to the surrounding community, and (2) that Customs could deny or revoke landing rights if the facilities for clearance and inspection were adequate to ensure compliance with Federal law.

User fee airports are individually designated as such under a separate Memorandum of Agreement which is worked out between Customs and the concerned airport authority with the approval of the state governor. The Regulations contain a list of designated user fee airports. Such airports have the same landing procedures as those for landing rights airports. For a flat fee (user fee) paid by the airport to cover the salary and benefits of one full-time inspector, plus certain related costs, Customs agrees to provide 8 hours of service every weekday, totaling 40 hours; however, any party requesting Customs overtime services is responsible for paying the full costs thereof as determined by statute. Under each Memorandum of Agreement, among other things, the user fee airport agrees to provide, at no cost to Customs, sufficient office space, utilities, office furniture and equipment, including costs for the installation and maintenance thereof.

To further improve the Regulations in part 122 regarding international, landing rights and user fee airports, Customs published a notice in the **Federal Register** (56 FR 66814) on December 26, 1991, soliciting public comment on proposed amendments which would (1) spell out the circumstances in which landing rights could be denied or withdrawn, (2) update the list of designated user fee airports and set forth the conditions under which such designation could be withdrawn, and (3) make a number of organizational and editorial changes in this overall connection. By notice published in the **Federal Register** on January 21, 1992 (57 FR 2319), a typographical error appearing in the original notice was corrected.

Discussion of Comments

Seven commenters responded to the notice of proposed rulemaking, focusing on proposed § 122.14(d) which set forth certain reasons for denying or withdrawing landing rights at a landing rights airport. All the commenters took exception to the inclusion of these criteria in the regulations, contending that proposed paragraph (d) contravened the Department of Transportation's "Cities Program", whereby new international service was promoted both to unserved as well as underserved communities by foreign carriers under specified conditions. It was generally inferred that Customs might unilaterally deny or withdraw service to a landing rights airport based on reasons that were perceived to be vague and unsubstantiated. A majority of the commenters were also concerned that after building new facilities to accommodate international travelers, as well as installing special equipment in conformance with Customs needs, the proposed section could effectively eliminate their sites as landing rights airports.

Determination

Customs has concluded that the reasons for denying or withdrawing landing rights at a landing rights airport should be included in the Regulations, but that these reasons should be revised and restated for greater clarification and specificity, and that a right of appeal should be provided in the event landing rights are denied or withdrawn. Section 122.14 is thus changed accordingly. The inclusion of these reasons together with a right of appeal will ensure that denials or withdrawals of landing rights will not be handled in an arbitrary manner. Customs has therefore determined that the proposed amendments, with the above modifications, should be adopted. In addition, the following changes have been made: in § 122.1(f), inserting "are given permission by Customs" in place of "may be allowed"; rephrasing § 122.1(m) to make clear that a listing of designated user fee airports is published in the Regulations for informational purposes; in § 122.14(c), adding a cross reference to §§ 24.17 and 24.22(e), Customs Regulations; revising § 122.15(b) to state that the list of designated user fee airports is subject to change without notice. In this latter connection, the list of designated user fee airports appearing in § 122.15(b) is further changed by removing the Santa Teresa Airport in Santa Teresa, New Mexico, and adding Alliance Airport in Ft. Worth, Texas; and Grant County Airport in Moses Lake, Washington.

Regulatory Flexibility Act

Because this document merely clarifies existing provisions of law and regulations, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Customs duties and inspections, Imports, Air carriers, Air transportation, Aircraft, Airports.

Amendments to the Regulations

For the reasons set forth in the preamble, part 122, Customs Regulations

(19 CFR part 122) is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644, 49 U.S.C. App. 1509.

2. Section 122.1 is amended by revising paragraphs (f) and (m) to read as follows:

§ 122.1 General definitions.

* * * * *

(f) *Landing rights airport.* A "landing rights airport" is any airport, other than an international airport or user fee airport, at which flights from a foreign area are given permission by Customs to land.

* * * * *

(m) *User fee airport.* A "user fee airport" is an airport so designated by Customs. Flights from a foreign area may be granted permission to land at a user fee airport rather than at an international airport or a landing rights airport. An informational listing of user fee airports is contained in § 122.15.

3. The heading of Subpart B is revised to read as follows:

Subpart B—Classes of Airports

§§ 122.34 and 122.39 [Redesignated as §§ 122.14 and 122.15]

4. Sections 122.34 and 122.39 are redesignated as §§ 122.14 and 122.15 respectively in Subpart B.

5. In newly redesignated § 122.14, paragraph (c) is revised and paragraphs (d) and (e) are added to read as follows:

§ 122.14 Landing rights airports.

* * * * *

(c) *Payment of expenses.* In the case of an arrival at a location outside the limits of a port of entry, the owner, operator or person in charge of the aircraft shall pay any added charges for inspecting the aircraft, passengers, employees and merchandise when landing rights are given (see §§ 24.17 and 24.22(e) of this chapter).

(d) *Denial or withdrawal of landing rights.* Permission to land at a landing rights airport may be denied or withdrawn for any of the following reasons:

(1) Appropriate and/or sufficient Federal Government personnel are not available;

(2) Proper inspectional facilities or equipment are not available at, or maintained by, the requested airport;

(3) The entity requesting services has failed to abide by appropriate instructions of a Customs officer;

(4) Reasonable grounds exist to believe that Federal rules and regulations pertaining to safety, Customs, or other inspectional activities have not been followed; or,

(5) The granting of the requested landing rights would not be in the best interests of the Government.

(e) *Appeal of denial or withdrawal.* In the event landing rights are denied or withdrawn by the district director, a written appeal of the decision may be made to the appropriate regional commissioner. If this appeal is denied, a final written appeal may be made to the Commissioner of Customs.

6. Newly redesignated § 122.15 is revised to read as follows:

§ 122.15 User fee airports.

(a) *Permission to land.* The procedures for obtaining permission to land at a user fee airport are the same procedures as those set forth in § 122.14 for landing rights airports.

(b) *List of user fee airports.* The following is a list of user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b. The list is subject to change without notice. Information concerning service at any user fee airport can be obtained by calling the airport or its authority directly.

Location	Name
Casper, Wyoming	Natrona County International Airport.
Columbus, Ohio	Rickenbacker Airport.
Fargo, North Dakota	Hector International Airport.
Fort Myers, Florida	Southwest Florida Regional Airport.
Lebanon, New Hampshire	Lebanon Municipal Airport.
Lehigh Valley, Pennsylvania	Allentown-Bethlehem-Easton Airport.
Midland, Texas	Midland International Airport.
Wilmington, Ohio	Airborne Air Park.
Fort Wayne, Indiana	Fort Wayne-Allen County Airport.
Morristown, New Jersey	Morristown Municipal Airport.
Jackson, Mississippi	Jackson Municipal Airport.
Rockford, Illinois	Greater Rockford Airport.
Waukegan, Illinois	Waukegan Regional Airport.
Klamath Falls, Oregon	Kingsley Field.
St. Paul, Alaska	St. Paul Airport.
Lexington, Kentucky	Bluegrass Airport.
Oakland, Michigan	Oakland-Pontiac Airport.
Yakima, Washington	Yakima Air Terminal.
Sanford, Florida	Sanford Regional Airport.
Ft. Worth, Texas	Alliance Airport.
Moses Lake, Washington	Grant County Airport.

(c) *Withdrawal of designation.* The designation as a user fee airport shall be withdrawn under either of the following circumstances:

(1) If either Customs or the airport authority gives 120 days written notice of termination to the other party; or

(2) If any amounts due to be paid to Customs are not paid on a timely basis.

7. Section 122.33 is revised to read as follows:

§ 122.33 Place of first landing.

(a) The first landing of an aircraft entering the U.S. from a foreign area shall be:

(1) At a designated international airport (see § 122.13);

(2) At a landing rights airport if permission to land has been granted (see § 122.14); or

(3) At a designated user fee airport if permission to land has been granted (see § 122.15).

(b) Permission to land at a landing rights airport or user fee airport is not required for an emergency or forced landing (see § 122.35).

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 14, 1992.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 92-22698 Filed 9-18-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Food Safety and Applied Nutrition

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to general redelegations of authority from the Commissioner of Food and Drugs to certain officers of FDA, to redelegate the Commissioner's authorities under sections 1322(b) and (c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (the National Laboratory Accreditation Program) (7 U.S.C. 138a), as amended hereafter, to the Director and Deputy Director, Center for Food Safety and Applied Nutrition (CFSAN).

EFFECTIVE DATE: September 21, 1992.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority by adding new § 5.64 *Establishing standards and approving Accrediting Bodies under the National Laboratory Accreditation Program.* The delegated authorities are under sections 1322(b) and (c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (the National Laboratory Accreditation Program) (7 U.S.C. 138a), as amended hereafter. The authorities relate to establishing standards, after consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, for a National Laboratory Accreditation Program and approving State agencies or private, nonprofit entities as accrediting bodies in implementing certification and quality assurance programs. The delegation excludes the authority to submit reports to Congress.

New § 5.64 redelegates the Commissioner's authorities under § 5.10(a)(34) to the Director and Deputy Director, CFSAN, because these authorities are directly related to current CFSAN operations and programs.

Further redelegation of the authorities delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. New § 5.64 is added to subpart B to read as follows:

§ 5.64 Establishing standards and approving accrediting bodies under the National Laboratory Accreditation Program.

The Director and Deputy Director, Center for Food Safety and Applied Nutrition, are authorized to perform all the functions of the Commissioner of Food and Drugs under sections 1322(b) and (c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (the National Laboratory Accreditation Program) (7 U.S.C. 138a), as amended hereafter; which relate to setting standards for the National Laboratory Accreditation Program and approving State agencies or private, nonprofit entities as accrediting bodies to implement certification and quality assurance programs in accordance with the requirements of these sections. The delegation excludes the authority to submit reports to the Congress.

Dated: September 15, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–22748 Filed 9–18–92; 8:45 a.m.]

BILLING CODE 4160–01–F

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21 CFR Part 177

[Docket No. 88F–0404]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer as the nonfood contact layer of laminated packaging intended for use in contact with food. This action responds to a petition filed by Mitsui Petrochemical Industries, Ltd.

DATES: Effective September 21, 1992; written objections and requests for a hearing by October 21, 1992. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in 21 CFR 177.1345, effective September 21, 1992.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 6, 1989 (54 FR 483), FDA announced that a food additive petition (FAP 8B4107) had been filed by Mitsui Petrochemical Industries, Ltd., Kasumigaseki Bldg., P.O. Box 90, 2–5 Kasumigaseki 3-chrome, Chiyoda-Ku, Tokyo 100, Japan, proposing that § 177.1395 *Laminate structures for use at temperatures between 120 °F and 250 °F* (21 CFR 177.1395) be amended to provide for the safe use of ethylene/1,3–phenylene oxyethylene isophthalate/terephthalate copolymer as a nonfood contact layer of food packaging laminates intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer is safe. The agency further concludes that new § 177.1345 should be added to 21 CFR part 177 to set forth the identity of this additive and that § 177.1395 should be amended to prescribe the conditions for its safe use in laminated structures as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 21, 1992 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with

particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. New § 177.1345 is added to subpart B to read as follows:

§ 177.1345 Ethylene/1,3-phenylene oxyethylene isophthalate/ terephthalate copolymer.

Ethylene/1,3-phenylene oxyethylene isophthalate/ terephthalate copolymer (CAS Reg. No. 87365-98-8) may be safely used as the nonfood contact layer of laminated structures subject to the provisions of § 177.1395 and this section:

(a) *Identity.* For the purpose of this section, ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer consists of the basic copolymer produced by the catalytic polycondensation of isophthalic acid and terephthalic acid with ethylene glycol and 1,3-bis(2-hydroxyethoxy)benzene such that the finished resin contains between 42 and 48 mole-percent of isophthalic moieties, between 2 and 8 mole-percent of terephthalic moieties, and not more than 10 mole-percent of 1,3-bis(2-hydroxyethoxy)benzene moieties.

(b) *Specifications*—(1) *Density.* Ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer identified in paragraph (a) of this section has a density of 1.33 ± 0.02 grams per cubic centimeter measured by ASTM Method D 1505-85 (Reapproved 1990), "Standard Test Method for Density of Plastics by the Density-Gradient Technique," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(2) *Softening point.* Ethylene/1,3-phenylene oxyethylene isophthalate/ terephthalate copolymer identified in paragraph (a) of this section has a softening point of 63 ± 5 °C as measured by ASTM Method D 1525-87, "Standard Test Method for VICAT Softening Temperature of Plastics," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this material is provided in paragraph (b)(1) of this section.

(c) *Optional adjuvant substances.* Ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer, identified in paragraph (a) of this section, may contain optional adjuvant substances required in their production. The optional adjuvants may include substances used in accordance with § 174.5 of this chapter.

3. Section 177.1395 is amended in the table in paragraph (b)(4) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 177.1395 Laminate structures for use at temperatures between 120 °F and 250 °F.

* * * * *

(b) * * *

(4) * * *

Substances	Limitations
Ethylene/1,3-phenylene oxyethylene isophthalate/ terephthalate copolymer (CAS Reg. No. 87365-98-8) complying with § 177.1345.	For use only with polyethylene terephthalate as the food-contact layer, complying with § 177.1630 under conditions of use C through G described in Table 2 of § 176.170(c) of this chapter. Laminate structures, when extracted with 8 percent ethanol at 150 °F for 2 hours shall not yield *m*-phenylenedioxy-O,O'-diethyl isophthalate or cyclic bis(ethylene isophthalate) in excess of 7.8 micrograms/ square decimeter (0.5 microgram/square inch) of food-contact surface.

* * * * *

Dated: September 1, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-22474 Filed 9-18-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances Temporary Placement of Aminorex into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to temporarily place aminorex into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding by the DEA Administrator that the scheduling of aminorex, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the regulatory controls and criminal sanctions imposed on Schedule I substances under the CSA will be applicable to the manufacture, distribution and possession of aminorex.

EFFECTIVE DATE: September 21, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 amended section 201 of the CSA (21 U.S.C. 811 et seq.) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if it is found that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General has delegated this authority under 21 U.S.C. 811 to the Administrator of the DEA (28 CFR 0.100). A substance may be temporarily scheduled pursuant to the emergency scheduling provisions of the CSA if that substance is not listed in any schedule under Section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act of the substance.

A notice of intent to temporarily place aminorex into Schedule I of the CSA was published in the **Federal Register** on July 24, 1991 (57 FR 32937). The Administrator transmitted notice of his intention to temporarily place aminorex into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration, by letter, has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act for aminorex. The letter further stated that the Department of Health and Human Services has no objections to DEA's intention to temporarily place aminorex into Schedule I of the CSA. No other comments were received regarding this matter.

Aminorex is a central nervous system stimulant and is an analogue of cis-4-methylaminorex, which is a Schedule I stimulant with a high potential for abuse. Aminorex, also called aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine is a phenylethylamine in which the side-chain has been cyclized into a substituted oxazoline. Its chemical structure is substantially similar to that of cis-4-methylaminorex. Available pharmacological data indicate that aminorex produces amphetamine-like, psychomotor stimulant effects in laboratory animals.

In accordance with 21 U.S.C. 811(h)(3), the Administrator has considered the following factors regarding aminorex: (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health.

Illicit trafficking with aminorex was first reported in 1990 by law enforcement personnel in Missouri. Subsequently it has been sold as methamphetamine in Minnesota, Michigan, Wisconsin, Florida, South Carolina and Pennsylvania. In 1991 a clandestine laboratory engaged in the production of aminorex was encountered in the state of Florida. Its operators were successfully prosecuted for the manufacture of a controlled substance analogue pursuant to 21 U.S.C. 813.

There has been one report of a death in 1990 linked to the abuse of aminorex in the United States. However, the scientific literature contains reports of deaths in Europe attributed to pulmonary hypertension in patients who were taking aminorex as an anorectic. Aminorex was sold in Europe as an approved anorectic for a short period in the mid-sixties. The similarity of aminorex to amphetamine and 4-methylaminorex, especially its central nervous system stimulant activity, strongly suggests that abuse of this substance will lead to health and safety risks similar to those produced by amphetamine, methamphetamine, and 4-methylaminorex. Since aminorex is prepared only in clandestine laboratories, there are additional risks inherently associated with clandestine manufacture.

Based on aminorex's structural similarity to cis-4-methylaminorex, its amphetamine-like central nervous system stimulant properties in animals and its clandestine production, distribution and abuse, the Administrator, pursuant to 21 U.S.C. 811(h) of the CSA and 28 CFR 0.100, finds that temporary placement of aminorex into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

The following regulations are effective with respect to aminorex on September 21, 1992, except that individuals registered with DEA in accordance with part 1301 or part 1311 of title 21 of the Code of Federal Regulations, who currently possess aminorex may continue to do so pending DEA's receipt of an application for amended registration no later than October 21, 1992:

1. Registration. Any person who manufactures, distributes, engages in research, imports or exports aminorex or who proposes to engage in the manufacture, distribution, importation or exportation of aminorex or conduct research with aminorex must be registered to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations.

2. Security. Aminorex must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of aminorex must comply with the requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for aminorex must submit applications pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations.

5. Inventory. Registrants in possession of aminorex are required to take inventories of all stocks of this substance on hand pursuant to §§ 1304.11–1304.19 of title 21 of the Code of Federal Regulations.

6. Records. All registrants required to keep records pursuant to §§ 1304.21–1304.27 of title 21 of the Code of Federal Regulations must do so regarding aminorex.

7. Reports. All registrants engaged in the manufacture, packaging, labeling or distribution of aminorex are required to submit reports in accordance with §§ 1304.35–1304.37 of Title 21 of the Code of Federal Regulations.

8. Order Forms. Each distribution of aminorex requires the use of an order form pursuant to §§ 1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of aminorex must be in compliance with part 1312 of title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with aminorex not authorized by or in violation of the CSA or the Controlled Substances Import and Export Act occurring on or after September 21, 1992 is unlawful.

The Administrator of the DEA hereby certifies that the temporary placement of aminorex into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

This final rule is not a major rule for the purposes of Executive Order (E.O.) 12291 (46 FR 13193) of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of E.O. 12291. Accordingly, this emergency scheduling action is not subject to the provisions of E.O. 12778 which are contingent upon review by OMB. This regulation both responds to an emergency situation posing an imminent danger to the public health and safety, and is essential to a criminal law enforcement function of the United States. Accordingly, it is not subject to the 90-day moratorium on regulations ordered by the President of the United States in his memorandum of January 28, 1992.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by Section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Paragraph (g)(4) is added to section 1308.11 to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(4) Aminorex (Some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers, and salts of optical isomers—1585.

Dated: September 10, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-22595 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 64

[CGD 91-031]

RIN 2115-AD83

Hazards to Navigation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Recent statutory amendments mandate the establishment of standards for what constitutes a hazard to navigation. The Coast Guard is amending 33 CFR part 64 to include a definition for such a hazard and a list of factors which are to be considered when determining whether any obstruction constitutes a hazard to navigation. Providing a list of factors and a definition will assist the owners of obstructions when evaluating whether an obstruction is a hazard to navigation which requires marking.

EFFECTIVE DATE: October 21, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Parker, Navigation Rules and Information Branch, U.S. Coast Guard (202) 267-0357.

SUPPLEMENTAL INFORMATION:

Drafting Information

The principle persons involved in drafting this document are Mr. Frank Parker, Project Manager, and Lieutenant Ralph L. Hetzel, Project Counsel, Office of Chief Counsel.

Regulatory History

On September 23, 1991, the Coast Guard published a notice of proposed rulemaking entitled "Hazards to Navigation" in the **Federal Register** (53 FR 47930). The Coast Guard received 13 letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

On two separate occasions, fishing vessels operating in the shallow near-shore waters of the Gulf of Mexico have struck submerged pipelines. In each of the accidents, the product in the pipeline was released and ignited, resulting in an explosion and the deaths of several of the crewmembers. Investigations into the accidents found the previously buried pipelines to be exposed above the ocean bottom.

Congressional concern for offshore pipeline safety culminated on October 27, 1990, with the passage of H.R. 4888 amending the Natural Gas Pipeline Act of 1968, the Hazardous Liquid Pipeline Act of 1979, and the Ports and Waterways Safety Act of 1972. These amendments were signed into law on November 16, 1990 (Pub. L. 101-599).

Title 33 CFR part 64 establishes the requirements for marking and reporting structures, sunken vessels, and other obstructions. However, part 64 does not include a definition of a hazard to navigation even though proposed § 64.10-1 states that sunken vessels or other obstructions should be marked whenever they constitute a hazard to navigation. Public Law 101-599 mandated the establishment of standards for the purposes of each subsection of the Natural Gas Pipeline Act of 1968, the Hazardous Liquid Pipeline Act of 1979, and the Ports and Waterways Safety Act of 1972, as amended, for what constitutes a hazard to navigation. The Coast Guard is satisfying part of this congressional mandate by revising 33 CFR part 64 to include a definition of hazard to navigation and a list of factors which are to be considered when determining whether any obstruction constitutes a hazard to navigation, in general.

Discussion of Comments and Changes

All comments received supported the Coast Guard's proposed action, with respect to defining an "obstruction" and a "hazard to navigation."

Four comments recommended the Coast Guard revise the existing § 64.10-1(d) to require owners of marine pipelines that are determined to be hazards to navigation to report and mark the hazardous portion of those pipelines in accordance with 49 CFR parts 192 or 195. The Coast Guard agrees with these recommendations. The revisions to 49 CFR parts 192 and 195 had not been published when the Coast Guard was preparing the notice of proposed rulemaking. A reference to 49 CFR parts 192 and 195 has been added to § 64.11(d) in part 64.

One comment was received concerning the referencing of OCS Order No. 1, paragraph 4, in existing § 64.10-1. OCS Order No. 1, paragraph 4, was rescinded in 53 FR 10596 and therefore, the Coast Guard is revising § 64.10-1 in this rulemaking to eliminate the reference.

Three comments were received recommending the Coast Guard exempt any pipeline that was designed, constructed, operated, and maintained in accordance with all existing Federal or state permitting and operating regulations from being considered a hazard to navigation under this rule. The Coast Guard does not agree with these recommendations. The pipelines

involved with the accidents had, from all indications, been designed, constructed, operated, and maintained in accordance with Federal State permitting and operating regulations. Because of the changing conditions of the seabed, these previously buried pipelines became exposed, creating a hazard to navigation. The discovery of the exposed pipelines, after they contributed to accidents, created a need for amendments to 49 CFR parts 192 and 195, and 33 CFR part 64.

Two comments were received requesting the District Commander be required to document, for public review, the factors considered in reaching a decision on whether an obstruction constituted a hazard to navigation. Factors considered by the District Commander in the determination that an obstruction requires marking are already provided to the owner of the obstruction, therefore no further action on this issue is required.

Four comments urged the Coast Guard to consider amending the commercial fishing vessel regulations to prohibit vessels from operating in depths of water equal to or less than the draft of the vessel. These recommendations will be forwarded to the appropriate program office at Coast Guard Headquarters for further consideration.

Because 33 CFR part 64 does not conform to the current section and subpart designation scheme for the CFR, the Coast Guard is taking this opportunity to redesignate the sections, subparts, and table of contents.

Regulatory Evaluation

This rulemaking is not major under Executive Order 12291 and nonsignificant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Because this rule merely provides a definition and criteria to consider in deciding to mark a hazard to navigation, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation is unnecessary.

The addition to the proposed rule requiring owners of marine pipelines determined to be hazards to navigation to report and mark these hazards in accordance with 49 CFR parts 192 or 195 provides reference to a more specific standard in those cases. The removal of the reference in existing § 64.10–1 to OCS Order No. 1, paragraph 4 merely removes reference to a rescinded order.

Small Entities

The changes resulting from this rulemaking are merely providing amplifying information for determining whether an object is a hazard to navigation. No new equipment or training expense is required. Therefore, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed the final rule in terms of the comments received and the revisions made in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Because regulation of aids to navigation is committed to the Coast Guard by statute, it expects no preemption issue with regard to State regulation on the same subject matter.

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.b.2.1. of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation as an administrative action under the Coast Guard's statutory authority to establish and regulate minor aids to navigation. This action clearly has no environmental impact. A Categorical Exclusion Determination is available in the docket.

List of Subjects in 33 CFR Part 64

Navigation (water), Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 64 as follows:

PART 64—MARKING OF STRUCTURES, SUNKEN VESSELS, AND OTHER OBSTRUCTIONS

1. The Authority citation for part 64 is revised to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 409, 1231; 42 U.S.C. 9118; 43 U.S.C. 1333; 49 CFR 1.46.

2. Part 64 is amended by redesignating the following as set forth in the tables below:

TABLE A

Old subpart designation	New subpart designation
64.01	A
64.10	B
64.20	C
64.30	D

TABLE B

Old section	New section
64.01–1	64.01
64.01–3	64.03
64.01–6	64.06
64.10–1	64.11
64.10–3	64.13
64.10–6	64.16
64.20–1	64.21
64.20–3	64.23
64.30–1	64.31
64.30–3	64.33

3. Section 64.06 is amended by adding the following definitions in alphabetical order to read as follows:

§ 64.06 Definition of terms.

* * * * *

Hazard to navigation means an obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

* * * * *

Obstruction means anything that restricts, endangers, or interferes with navigation.

* * * * *

4. Section 64.11 is amended by revising paragraph (a) and adding a new paragraph (d) before the note to read as follows:

§ 64.11 Marking and notification requirements.

(a) The owner of a vessel, raft, or other craft wrecked and sunk in a navigable channel shall mark it immediately with a buoy or daymark during the day and with a light at night. The owner of a sunken vessel, raft, or other obstruction that otherwise constitutes a hazard to navigation shall mark it in accordance with this subchapter.

* * * * *

(d) Owners of marine pipelines that are determined to be hazards to navigation shall report and mark the hazardous portion of those pipelines in accordance with 49 CFR parts 192 or 195, as applicable.

5. Section 64.31 is revised to read as follows:

§ 64.31 Determination of hazard to navigation.

In determining whether an obstruction is a hazard to navigation for the purposes of marking, the District Commander considers, but is not limited to, the following factors:

(a) Location of the obstruction in relation to the navigable channel and other navigational traffic patterns;

(b) Navigational difficulty in the vicinity of the obstruction;

(c) Depth of water over the obstruction, fluctuation of the water level, and other hydrologic characteristics in the area;

(d) Draft, type, and density of vessel traffic or other marine activity in the vicinity of the obstruction;

(e) Physical characteristics of the obstruction;

(f) Possible movement of the obstruction;

(g) Location of the obstruction in relation to other obstructions or aids to navigation;

(h) Prevailing and historical weather conditions;

(i) Length of time that the obstruction has been in existence;

(j) History of vessel incidents involving the obstruction; and

(k) Whether the obstruction is defined as a hazard to navigation under other statutes or regulations.

Dated: August 26, 1992.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-22631 Filed 9-18-92; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Mailability of Sharps and Other Medical Devices

AGENCY: Postal Service.

ACTION: Amendment to final rule.

SUMMARY: In response to further comments, and to ensure that parcels covered by this rule will be in complete compliance with Department of Transportation regulations on shipping papers and marking of hazardous materials, and to preclude parcels of this type from being rejected by the airlines, we are amending the final rule titled Mailability of Sharps and Other Medical Devices, dated June 30, 1992 (57 FR 29028).

EFFECTIVE DATE: December 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Earl Hohbein, (202) 268-5309.

SUPPLEMENTARY INFORMATION: This amendment, effective December 28, 1992, requires that each package be marked with the proper shipping name and identification number (preceded by "UN" or "NA" as appropriate). Additionally, the amended final rule will require that every piece must carry a shipper's declaration for dangerous goods (in addition to the required manifest) showing the proper shipping name (49 CFR 172.202(a)(1)), the hazard class or division (49 CFR 172.202(a)(2)), and the identification number for the material (49 CFR 172.202(a)(3)). Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)) regarding the proposed rule, the Postal Service invited comments. In view of these new requirements, we are also amending content requirements for the four part manifest described in new DMM section 124.384h.

After careful consideration of the comments received after publishing the final rule, the Postal Service adopts the following amendments to part 124 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. Section 124.384 is amended by adding sections 124.384k(1) and 124.384k(2). Exhibit 124.384k1 is also added to this amendment as referenced in new section 124.384k(1).

124 NONMAILABLE MATTER—ARTICLES AND SUBSTANCES; SPECIAL MAILING RULES

* * * * *

h. All mailed packages continuing used sharps must be accompanied by a four-part manifest or mail disposal service shipping record. The manifest must be placed in an envelope which is affixed to the outside of the shipping container, and must comply with any applicable requirements imposed by the laws of the State from which the package is mailed.

At a minimum, the following information must appear on the manifest:

1. Generator (Mailer)

a. Name
b. Complete address (NOT A P.O. BOX)
c. Telephone number
d. Description of contents—"Infectious Substances-Sharps".
e. Date the shipping container was mailed, and
f. State permit number of the approved facility in which the contents will be disposed.

* * * * *

124.384k Required markings on packages.

(1) Each package must have a shipper's declaration for dangerous goods in one original and two copies. The shipper's declaration must be completed by the mailer showing the proper shipping name of the material, the classification of the material, and the identification number (or "UN number "). For the mailing of sharps there are two distinct possibilities: "Infectious Substances, affecting animals only", classification "6.2" and "UN 2900" or "Infectious Substances, affecting humans", classification "6.2", and "UN 2814." The shipper's declaration must bear the same basic wording and appear in the exact format (including the red parallelograms printed along the total length of the right and left margins) as Exhibit 124.384k(1) and show a 24-hour emergency telephone number (including the area code) for use in the event of an emergency involving the shipment. This emergency telephone number must be printed, marked, or affixed on the form and preceded by the words "Emergency Contact: * * *", preferably located in the "Additional Handling Information" box.

(2) Each package must also be endorsed showing the appropriate "UN" number followed by the proper shipping name. These endorsements should appear next to the Infectious Substance label.

A transmittal letter making these changes in the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

BILLING CODE 7710-12-M

Exhibit 124.384k1

SHIPPER'S DECLARATION FOR DANGEROUS GOODS **(Provide at least two copies to the airline.)**

Shipper	Air Waybill No. Page of Pages Shipper's Reference Number *(optional)*
Consignee	

Two completed and signed copies of this Declaration must be handed to the operator

TRANSPORT DETAILS

This shipment is within the limitations prescribed for: *(delete non-applicable)*

PASSENGER AND CARGO AIRCRAFT / CARGO AIRCRAFT ONLY

Airport of Departure

Airport of Destination:

WARNING

Failure to comply in all respects with the applicable Dangerous Goods Regulations may be in breach of the applicable law, subject to legal penalties. This Declaration must not, in any circumstances, be completed and/or signed by a consolidator, a forwarder or an IATA cargo agent.

Shipment type: *(delete non-applicable)*

NON-RADIOACTIVE / RADIOACTIVE

NATURE AND QUANTITY OF DANGEROUS GOODS *(See Sub-Section 8.1 of IATA Dangerous Goods Regulations)*

Dangerous Goods Identification						
Proper Shipping Name	Class or Division	UN or ID No.	Subsidiary Risk	Quantity and type of packing	Packing Inst.	Authorization

Additional Handling Information

I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked and labelled, and are in all respects in the proper condition for transport by air according to the applicable International and National Government Regulations.

Name/Title of Signatory

Place and Date

Signature *(see warning above)*

STYLE F83 LABELMASTER Div of AMERICAN LABELMARK CO CHICAGO, IL 60646

[FR Doc. 92-21869 Filed 9-18-92; 8:45 am]

BILLING CODE 7710-12-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL 4507-9]

Negative Declaration for Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 1, 1991, the State of Mississippi certified that there were no municipal waste combustors in the State subject to the requirements of section 111(d) of the Clean Air Act. In this action EPA is approving this negative declaration.

EFFECTIVE DATE: This action will be effective November 20, 1992 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the material submitted by the State of Mississippi may be examined during normal business hours at the following locations:

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365

Air Division, Department of Environmental Quality, Bureau of Pollution Control, Post Office Box 10385, Jackson, Mississippi 30289-0385.

FOR FURTHER INFORMATION CONTACT: Scott Miller of the EPA Region IV Air Programs Branch at 404-347-2864 and at the above address.

SUPPLEMENTARY INFORMATION: Under section 111(d) of the Clean Air Act, the Administrator is required to publish a list of categories of stationary sources which cause, or contribute significantly to, "air pollution which may reasonably be anticipated to endanger public health or welfare." For each category the Administrator must publish regulations which establish Federal standards of performance for new stationary sources (NSPS) within that category.

Section 111(d) provides for regulation of existing sources which are in a category for which an NSPS has been promulgated for new sources. EPA publishes guideline documents for control of these existing sources which give suggested emission limitations and control techniques. These are usually less stringent than the NSPS and factors such as: cost of control equipment, economic health of the source, age of the source, etc., may be taken into consideration. Each state must then either submit a plan for control of these sources, or a negative declaration stating that there are no sources located in the State subject to that regulation.

Pursuant to these requirements, the State of Mississippi, on August 6, 1991, certified that there were no municipal waste combustors in the State subject to the requirements of section 111(d) of the Clean Air Act. EPA concurs with the State's negative declaration.

Final Action

Based on the foregoing, EPA hereby approves the negative declaration made by the State of Mississippi. EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 111(d) plan revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291.

Nothing in this action shall be construed as permitting, allowing or establishing a precedent for any future request for a revision to any 111(d) plan. Each request for revision to the 111(d) plan will be considered in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: June 8, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

Part 62 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7462.

2. Section 62.6123 and an undesignated heading are added to subpart 2 to read as follows:

Subpart Z—Mississippi

Municipal Waste Combustors

§ 62.6123 Identification of sources—Negative declaration.

The Mississippi Bureau of Pollution Control submitted on August 6, 1991, a letter certifying that there are no municipal waste combustors in the State subject to part 60, subpart B of this chapter.

[FR Doc. 92-22788 Filed 9-18-92, 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6945

[CA-940-4214-10; CAS 052887]

Partial Revocation of Public Land Order No. 2460; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 640 acres of public land withdrawn for the Temblor National Cooperative Land and Wildlife Management Area. The land is no longer needed for this purpose, and the revocation is needed to permit

disposal of the land through land exchange under section 206 of the Federal Land Policy and Management Act of 1976. This action will open the land to the non-mineral public land laws unless closed by overlapping withdrawals or temporary segregations of record. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: October 21, 1992.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916–978–4820.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 2460, which withdrew public land for the Temblor National Cooperative Land and Wildlife Management Area, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 32 S., R. 23 E.,
Sec. 28, all.

The area described contains 640 acres in Kern County.

2. At 10 a.m. on October 21, 1992, the land will be opened to the operation of the non-mineral public land laws subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 21, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: September 8, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92–22694 Filed 9–18–92; 8:45 am]

BILLING CODE 4310–40–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

Reevaluation of the Depreciated-Original-Cost Standard in Setting Prices for Conveyances of Capital Interests in Overseas Communications Facilities Between or Among U.S. Carriers; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule [FCC 92–286], which was published Tuesday, July 28, 1992, [57 FR 33,275] concerning reevaluation of the Depreciated-Original-Cost Standard in setting prices for conveyances of capital interests in overseas communications facilities between or among U.S. Carriers.

EFFECTIVE DATE: August 27, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Suzan Balk Friedman, attorney/advisor, International Policy Division, Common Carrier Bureau (202) 632–7265.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final rule inadvertently omitted the Final Regulatory Flexibility Act Analysis.

Correction of Publication

The publication on July 28, 1992 of the final rule [FCC 92–286] is corrected to include the Final Regulatory Flexibility Analysis. Paragraphs 6 through 10 are redesignated 10 through 14 accordingly. The Final Regulatory Analysis is added on page 33276 in column 1. The Final Regulatory Flexibility Analysis is as follows:

Final Regulatory Flexibility Analysis

6. Pursuant to the Regulatory Flexibility Act of 1980 [Pub. L. 96–354], see U.S.C. 604, our final analysis is as follows:

Need and Purpose of this Action

7. This Report and Order adopts the proposal made in the NPRM to replace the current net-book-cost standard for pricing conveyances of capital interests in overseas communications facilities between or among U.S. carriers. Under the policy adopted herein, prices are set pursuant to negotiations between the owners and prospective purchasers of the facilities. The net-book-standard was adopted twenty-five years ago. Since that time, the telecommunications facilities market has undergone dramatic changes and the current pricing policy is no longer appropriate in a highly competitive market. The new policy reflects our recognition of these changes.

Summary of the Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

8. There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

Significant Alternatives Considered

9. The NPRM offered three alternatives to negotiated, market-based pricing. They are pooling arrangements, net-book-cost plus carrying charges or some fraction of carrying charges and the setting of maximum and minimum price levels. None of the commenters supported these proposals except as an alternative to market-based pricing. The Commission concluded that the alternatives it had proposed in the NPRM would not remedy the problems associated with the net-book-cost standard.

Federal Communications Commission.

Diane Cornell,

Chief, International Policy Division, Common Carrier Bureau.

[FR Doc. 92–22471 Filed 9–18–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 80

[PR Docket No. 91–293; FCC 92–355]

Data Emissions on Marine Public Correspondence Channels in the 156–162 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order amends Part 80 of the Commission's rules to permit the use of facsimile and data communications nationwide on all marine 156–162 band (marine VHF) public correspondence channels for communications between public coast stations and ship stations. This action is in response to a request from WJG Maritel Corporation (WJG) to permit such use. The intent of this action is to provide VHF public coast stations and the commercial as well as noncommercial vessels they serve with a wider range of communications options such as facsimile, teleprinter and data communications while promoting more efficient use of the radio spectrum.

EFFECTIVE DATE: October 21, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Roger S. Noel, Aviation and Marine Branch, Private Radio Bureau, Federal Communications Commission, 2025 M Street NW., 1700C2, Washington, DC 20554; or telephone (202) 632–7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 91–293, adopted July 31, 1992, and released August 31, 1992. The complete text of the Report and Order, including appendices, is available for inspection and copying

during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text also may be purchased from the Commission's copy contractor: Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036. DCC's FAX number is (202) 296-3780.

Summary of Report and Order

1. Since 1986, an integrated system of public coast stations operating on the marine VHF public correspondence channels in the Great Lakes region has been permitted to provide facsimile and data communication services to ship stations. Individual public coast stations operating on the same channels in other parts of the United States, however, have been limited to voice operations. This action will permit the use of facsimile and data communications, in addition to voice communications, on public correspondence channels in the frequency band 156–162 MHz (marine VHF) by all public coast stations.

2. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, and found to contain no new or modified form, information collection and/or record retention requirements, and will not increase or decrease burden hours imposed on the public.

3. The amended rules are set forth at the end of this document.

4. The amended rules are issued under the authority of sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), part 80 of the Commission's rules, 47 CFR part 80.

List of Subjects in 47 CFR Part 80

Coast stations, Communications equipment, Facsimile, Maritime Stations, VHF public correspondence channels.

Federal Communications Commission.

William Caton,

Acting Secretary.

Amended Rules

Part 80 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.122 is revised to read as follows:

§ 80.122 Public coast stations using facsimile and data.

Facsimile operations are a form of telegraphy for the transmission and receipt of fixed images between authorized coast and ship stations. Facsimile and data techniques may be implemented in accordance with the following paragraphs.

(a) *Supplemental Eligibility Requirements.* Public coast stations are eligible to use facsimile and data techniques with ship stations.

(b) *Assignment and use of frequencies.* (1) Frequencies in the 2000–27500 kHz bands in part 2 of the Commission's rules as available for shared use by the maritime mobile service and other radio services are assignable to public coast stations for providing facsimile communications with ship stations. Additionally, frequencies in the 156–162 MHz band available for assignment to public coast stations for radiotelephone communications that are contained in subpart H of this part are also available for facsimile and data communications.

(2) Equipment used for facsimile and data operations is subject to the applicable provisions of subpart E of this part.

(3) The use of voice on frequencies authorized for facsimile operations in the bands 2000–27500 kHz listed in subpart H of this part is limited to setup and confirmation of receipt of facsimile transmissions.

3. Section 80.205 is amended by revising Footnotes 6 and 12 to the table in paragraph (a) to read as follows:

§ 80.205 Bandwidths.

(a) * * *

* * * * *

[6] Applicable only to radioprinter and data in the 156–162 MHz band and radioprinter in the 216–220 MHz band.

* * * * *

[12] Applicable to radiolocation and associated telecommand ship stations operating on 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz, and 459.000 MHz; emergency position indicating radiobeacons operating in the 406.000–406.1000 MHz frequency bank; and data transmissions in the 156–162 MHz band.

* * * * *

4. In Section 80.207, paragraph (d) is amended by revising the entry for 156–220 MHz under the heading "Ship Stations" and 156–162 MHz[2] under the heading "Land Stations" and by revising footnote 2 to read as follows:

§ 80.207 Classes of emission.

* * * * *

(d) * * *

Ship Stations [1]

* * * * *

156–162 MHz[2].....F1B,F2B,F2C,F3C,F1D,F2D

* * * * *

Land Stations [1]

* * * * *

156–162 MHz[2].....F1B,F2B,F2C,F3C,F1D,F2D

* * * * *

[2] Frequencies used for public correspondence. See §§ 80.371(c) and 80.385(b). Transmitters type accepted before January 1, 1994, for G3E emissions will be authorized indefinitely for F2C, F3C, F1D and F2D emissions. Transmitters type accepted after January 1, 1994, will be authorized for F2C, F3C, F1D or F2D emissions only if they are type accepted specifically for each emission designator.

* * * * *

5. Section 80.213 is amended by revising paragraph (d) to read as follows:

§ 80.213 Modulation requirements.

* * * * *

(d) Ship and coast station transmitters operating in the 156–162 MHz and 216–220 MHz bands must be capable of proper operation with a frequency deviation of ±5 kHz when using any emission authorized by § 80.207.

* * * * *

6. Section 80.361 is amended by revising its heading and adding a new paragraph (d) to read as follows:

§ 80.361 Frequencies for narrow-band direct-printing (NBDP), radioprinter, and data transmissions.

* * * * *

(d) The frequencies in the 156–162 MHz band available for assignment to public coast stations that are contained in § 80.371(c) of this part are also available for radioprinter and data communications between ship and coast stations using F1B, F2B, F1D, or F2D emission.

* * * * *

7. Section 80.363 is amended by redesignating the introductory paragraph as paragraph (a), redesignating existing paragraph (a) and (b) as (a)(1) and (a)(2) respectively, and adding a new paragraph (b) to read as follows:

§ 80.363 Frequencies for facsimile.

* * * * *

(b) The frequencies in the 156–162 MHz band available for assignment to public coast stations that are contained in § 80.371(c) of this part are also available for facsimile communications

between ship and coast stations using F2C or F3C emission.

[FR Doc. 92-22745 Filed 9-18-92; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 90-34; FCC No. 92-363]

Short-Spacing of Specialized Mobile Radio Systems Upon Concurrence From Co-Channel Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order affirms the actions taken in a Report and Order (Order) adopted in this proceeding permitting applicants to locate co-channel transmitters closer than current mileage separations, without seeking a waiver, by either obtaining the consent of affected licensees or filing in accordance with a short-spacing "Table" specifying reduced power and antenna heights according to the actual distance between co-channels facilities. The National Association of Business and Educational Radio, Inc., the American Mobile Telecommunications Association, Inc., Commercial Engineering Corporation, and Francis J. Dirico sought reconsideration of several aspects of the Order. The Commission affirmed all aspects of the Order, except that it extended the period for co-channel licensees to evaluate waiver requests from 10 days to 30 days, adopted a directional method for calculating antenna height above average terrain when using the short-spacing Table, and expanded the short-spacing Table to include columns for 300 and 500 watts. The effect of these changes will be more spectrum efficient licensing of SMR stations.

EFFECTIVE DATE: October 21, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, PR Docket No. 90-34, FCC 92-363, adopted August 4, 1992 and released September 4, 1992. The full text of this Memorandum Opinion and Order is available for inspection during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20026, telephone (202) 452-1422.

Summary of Memorandum Opinion and Order

The Report and Order in PR Docket No. 90-34 adopted rules to enable applicants for Specialized Mobile Radio (SMR) stations to locate facilities closer than the current minimum co-channel separation without requesting a waiver. SMR stations that are licensed closer to co-channel facilities than § 90.621(b) provides are commonly referred to as short-spaced facilities. Specifically, the Order authorized applicants to short-space without a waiver under two scenarios. The first of these is referred to as "consensual short-spacing" and enables an applicant to short-space by submitting written consent from all affected co-channel licensees evidencing their willingness to accept any interference that results from the reduced mileage separation. The second scenario is referred to as "technical short-spacing" and allows an applicant to short-space in accordance with the mileage separations identified in our short-spacing "Table."

The National Association of Business and Educational Radio, Inc., the American Mobile Telecommunications Association, Inc., Commercial Engineering Corporation, and Francis J. Dirico seek reconsideration of a number of decisions in the Order specifically, (1) the criteria used to evaluate a waiver of § 90.621(b) of the rules; (2) the appropriateness of operational parameters to be considered in evaluating short-spacing requests using the Table; (3) whether the short-spacing parameters adopted for certain areas of the country are appropriate; (4) the adequacy of procedural aspects of short-spacing requests; and (5) whether a two-year moratorium should be imposed on short-spaced facilities while the real-world effects of previously authorized short-spaced systems are studied. In the Memorandum Opinion and Order the Commission affirms all aspects of the Report and Order, except that it extended the period for co-channel licensees to evaluate waiver requests from 10 to 30 days, adopted a directional method for calculating antenna height above average terrain when using the short-spacing Table, and expanded the short-spacing Table to include columns for 300 and 500 watts.

List of Subjects in 47 CFR Part 90

Business and industry, Communications equipment; Radio.

Amendatory Text

Chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 90 continues to read:

Authority: Secs. 4, 303, 331, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 and 332 unless otherwise noted.

2. Section 90.621 is amended by revising paragraph (b)(1), revising the first sentence of paragraph (b)(3), revising paragraph (b)(4), and adding new paragraph (b)(6) to read as follows:

§ 90.621 Selection and assignment of frequencies

(b) * * *

(1) Except as indicated in paragraph (b)(4) of this section, no trunked system will be less than 169 km (105 miles) distant from co-channel trunked systems authorized 1 kW ERP on any of the following mountain top sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

* * * * *

(3) Except as indicated in paragraph (b)(4) of this section, SMR trunked systems located in the State of Washington at the following locations shall be separated from co-channel systems by a minimum of 169 km (105 miles). * * *

(4) The following Table indicates permissible distances between co-channel systems separated by less than 113 km (70 miles). Applicants seeking to be licensed for systems located at distances less than those prescribed in the table are required to secure a waiver and to file with their license application a certificate of service indicating that, concurrent with the filing of the application with the Commission, all co-channel licensees within the applicable area were served with a copy of the application and all attachments thereto. Such licensees served with a copy of the application may file an opposition to the application within 30 days from the date the application is filed.

DISTANCE (KM) OF PROPOSED FACILITY FROM EXISTING FACILITY [1] [2]

Proposed facility*										
DHAAT**		ERP (watts)								
(m)	(feet)	1000	800	600	500	400	300	200	100	50
30.5	100	108	105	101	98	95	92	87	80	75
61	200	113	112	107	105	102	99	95	89	83
91.5	300	113	113	113	111	108	105	101	95	89
122	400	113	113	113	113	112	109	105	99	93
152.5	500	113	113	113	113	113	112	108	102	97
183	600	113	113	113	113	113	113	110	104	99
213.5	700	113	113	113	113	113	113	113	107	101
244	800	113	113	113	113	113	113	113	109	103
274.5	900	113	113	113	113	113	113	113	112	105
305	1000	113	113	113	113	113	113	113	113	108

* Applicants whose exact ERP and DHAAT are not reflected in the table must use the next higher figure shown. Distances are shown in kilometers.
** The DHAAT is defined as the average of the antenna heights above average terrain from 3 to 16 kilometers (2 to 10 miles) from the proposed site along a radial extending in the direction of the existing station and the radials 15 degrees to either side of that radial.
[1] Separations for trunked systems on Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson (California) and the locations in the State of Washington listed in 47 CFR 90.621(b)(3) are 56 km (35 miles) greater than those indicated in the table above. In the event of a conflict between this table and 47 CFR 90.621(b)(2)(ii), the latter will control.
[2] The distances shown are based on a non-overlap of the 22 dBu interference contour of the proposed station with the 40 dBu service contour of the existing station(s). No consideration has been given between the 40 dBu service contour of the proposed station and the 22 dBu interference contour of the existing station(s).

* * * * *

(6) A station located closer than the distances provided in paragraphs (b)(1) and (b)(3) of this section to a co-channel station that was authorized as short-spaced under paragraph (b)(4) of this section shall be permitted to modify its facilities as long as the station does not extend its 30 dBu contour beyond its maximum 30 dBu contour (i.e., the 30 dBu contour calculated using the station's maximum power and antenna height at its original location) in the direction of the short-spaced station.

* * * * *

Federal Communications Commission.

William Caton,

Acting Secretary.

[FR Doc. 92-22743 Filed 9-18-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 52

[FAC 90-12; FAR Case 92-18]

Federal Acquisition Regulation; Cost Accounting Standards; Correction

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correction to interim rule.

SUMMARY: This document corrects Federal Acquisition Circular (FAC) 90-12, Cost Accounting Standards, published in the **Federal Register** on Monday, August 31, 1992 (57 FR 39586).

EFFECTIVE DATE: August 31, 1992.

SUPPLEMENTARY INFORMATION: In FR Doc. 92-20667, beginning on page 39586 in the issue of Monday, August 31, 1992, make the following corrections:

§ 30.201-4 [Corrected]

1. At 57 FR 39587, August 31, 1992, at section 30.201-4(b)(1), in the 13th line, "paragraph (d)" should read "paragraph (c)".

2. On page 39588 at section 30.201-4(d)(1), in the last line, "paragraph (c)" should read "paragraph (b)".

§ 30.602-2 [Corrected]

3. On page 39590, at section 30.602-2(d)(3), in the 6th line, the word "shall" should read "should".

§ 52.230-1 [Corrected]

4. On page 39591, in the last column at section 52.230-1, in paragraph I(c)(4) of the clause, in the 14th line, the word "review" should read "revised".

Dated: September 11, 1992.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 92-22721 Filed 9-18-92; 8:45 am]

BILLING CODE 5820-34-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 920407-2519]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of the school Atlantic bluefin tuna component of the Angling category in waters off New Jersey and states north.

SUMMARY: NMFS closes the fishery for school Atlantic bluefin tuna conducted by Angling category fishermen in the waters off New Jersey and states north. Closure of this fishery is necessary because the annual quota of 53 metric tons (mt) of school Atlantic bluefin tuna allocated for this category in waters off New Jersey and states north has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 0001 hours local time September 23 through December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone or Aaron E. King, 301-713-2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*)

regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(d)(2) of the regulations provides for an annual quota of 53 mt of school Atlantic bluefin tuna to be harvested from waters off New Jersey and states north by individuals in the Angling category. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of school Atlantic bluefin tuna for those fishing in waters off New Jersey and states north will be attained by September 22, 1992. Fishing for, and retention of, any school Atlantic bluefin tuna harvested under § 285.22(d)(2) must cease at 0001 local time on September 23, 1992.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 15, 1992.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-22798 Filed 9-18-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 400

RIN 1028-AA04

Regulations for Obtaining Federal Assistance in Financing Explorations for Mineral Reserves, Excluding Organic Fuels, in the United States, Its Territories and Possessions

AGENCY: U.S. Geological Survey, Interior.

ACTION: Proposed Removal of Rule.

SUMMARY: The U.S. Geological Survey (USGS) has reviewed its regulations for currency, adequacy, and continued need. Consequently, the USGS is proposing to remove the Regulations for Obtaining Federal Assistance in Financing Explorations for Mineral Reserves, Excluding Organic Fuels, in the United States, its Territories and Possessions because the program has had no funding authority since 1979, and it is doubtful that funding will be authorized in the foreseeable future.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments should be addressed to the Chief Geologist, U.S. Geological Survey, 911 National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Gary C. Curtin, 703-648-4242.

SUPPLEMENTARY INFORMATION:

Required Analyses: The Department of the Interior has determined this document is not a major rule under E.O. 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because the program has not been funded since 1979, removal of the regulations will not adversely affect the Nation's economy or any small entities in industry or Government.

This action will have no potential for significant environmental impact and is categorically excluded from the requirements for compliance with the National Environmental Policy Act of 1969, as amended (P.L. 91-190. 83 Stat. 852).

Paperwork Reduction Act: No information collection or recordkeeping has been required under the regulations since 1989.

Executive Order No. 12778: The Department has certified to the Office of Management and Budget that this proposed regulation meets the applicable standards provided in Sections 2(a) and 2(b) of Executive Order No. 12778.

Author: The principal author of this proposed rule is Gary Curtin, Geologic Division, U.S. Geological Survey.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed removal to the location identified in the Addresses section of this preamble. Comments must be received on or before (insert date 30 days after date of publication in the **Federal Register**).

List of Subjects in 30 CFR Part 400: Government contracts, Grant programs-natural resources, Mineral resources, Mineral royalties.

Under the authority of 30 U.S.C. 642(e) and for the reasons stated above, it is proposed to remove 30 CFR Part 400.

Dated: August 17, 1992.

Harlan L. Watson,

Principal Deputy Assistant Secretary—Water and Science.

[FR Doc. 92-22724 Filed 9-18-92; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Mines

30 CFR Part 609

RIN 1032-AA02

Payments Required for Owners of Private Lands Upon Which the Bureau of Mines Performs Exploration or Development Work To Investigate Known Coal Deposits

AGENCY: Bureau of Mines, Interior.

ACTION: Proposed rescission.

SUMMARY: This part sets forth the Federal Government's stipulation that a "reasonable percentage" of the value of coal produced by a private owner be paid to the Federal Government as compensation for the exploration and development efforts of the Bureau of Mines. Rescission of this rule is proposed as this regulation no longer has application to Bureau programs, since the Bureau of Mines no longer conducts exploration and development work on known coal deposits.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments should be sent to: Michael L. Kaas, U.S. Department of the Interior, Chief, Division of Resource Evaluation, U.S. Bureau of Mines, 810 7th Street NW., Washington, DC 20241.

FOR FURTHER INFORMATION CONTACT: John D. Ford, U.S. Department of the Interior, U.S. Bureau of Mines, Branch of Management Analysis, 810 7th Street NW., Washington, DC 20241, Tel: 202-501-9253.

SUPPLEMENTARY INFORMATION: The current 30 CFR part 609, Payments Required from Owners of Private Lands Upon Which the Bureau of Mines Performs Exploration or Development Work to Investigate Known Coal Deposits is a result of a directive established in fiscal year 1947 by the Interior Department Appropriation Act. At that time, the Bureau investigated known coal deposits on Federal, State, and private lands. When on private lands, the Federal Government required a "reasonable percentage" of the value of coals produced by the private owner as compensation for the exploration and development efforts. This regulation, as described above, no longer has application to Bureau programs, since the Bureau no longer conducts exploration and development work on known coal deposits. Under the authority of the President's memorandum of January 28, 1992, regarding reducing the burden of Government regulation, it is recommended, this regulation be rescinded.

The Department of the Interior has determined this document is not a major rule under Executive Order 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*).

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Bureau of Mines certifies that this rule will not have a significant economic effect on a substantial number of small entities.

The proposed rule to rescind 30 CFR part 609, is determined not to have Federalism effects under Executive Order 12612 as it has no direct causal effect on the relative roles of Federal and State Government.

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under The National Environmental Policy Act of 1969.

Author

Michael L. Kaas, Chief, Division of Resource Evaluation, Bureau of Mines.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule to the location identified in the Addresses section of this preamble. Comments must be received no later than October 21, 1992.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b) of Executive Order 12778.

Dated: August 26, 1992.

John M. Sayre,

Assistant Secretary—Water and Science.

[FR Doc. 92-22570 Filed 9-18-92; 8:45 am]

BILLING CODE 4310-53-M

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30 CFR Part 651

RIN 1032-AA03

Rules and Regulations for the Administration of Grants

AGENCY: Bureau of Mines, Interior.

ACTION: Proposed Rescission.

SUMMARY: The current 30 CFR part 651, requires innovation in the submission of research and development proposals to further Bureau programs as authorized by statute. These requirements are also contained in 48 CFR chapter 15, part 1515, subpart 1515.5. Since there is no need that these requirements be contained in both locations, this part is proposed for rescission.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments should be sent to: Doyne W. Teets, Chief Division of Procurement, U.S. Department of the Interior, U.S. Bureau of Mines, 810 7th Street NW., Washington, DC 20241.

FOR FURTHER INFORMATION CONTACT: John D. Ford, U.S. Department of the Interior, U.S. Bureau of Mines, Branch of Management Analysis, 810 7th Street NW., Washington, DC 20241, Tel: 202-501-9253.

SUPPLEMENTARY INFORMATION: Under the Authority of the President's Memorandum of January 28, 1992, regarding reducing the burden of Government regulations, it is recommended, this regulation be rescinded. The Department of the Interior has determined this document is not a major rule under Executive Order 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Bureau of Mines certifies that this rule will not have a significant economic effect on a substantial number of small entities.

The proposed rule to rescind 30 CFR part 651 is determined not to have Federalism effects under Executive Order 12612 as it has no direct causal effect on the relative roles of Federal and State Government.

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

Author: Doyne W. Teets, Chief, Division of Procurement, U.S. Bureau of Mines.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule to the location identified in the **ADDRESSES** section of this preamble. Comments must be received no later than October 21, 1992.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b) of Executive Order 12778.

Dated: August 26, 1992.

John M. Sayre,

Assistant Secretary—Water and Science.

[FR Doc. 92-22571 Filed 9-18-92; 8:45 am]

BILLING CODE 4310-53-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 5 and 10

[Docket No. 920779-2179]

RIN 0651-AA34

Miscellaneous Changes in Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent cases to: Expand the authority to sign a terminal disclaimer in a patent application or a disclaimer in a patent; allow an appellant appearing without counsel to file an appeal brief which is not in compliance with current 37 CFR 1.192(c); prohibit fee extensions of time to file: Corrected drawings after allowance, reply briefs, and requests for oral hearing; clarify the requirements for claiming foreign priority; require that the specification of a design application describe the nature and intended use of the article being claimed; specify the manner in which additional fees are computed when applicants incorrectly claim small entity status; and correct errors in published regulations.

DATES: Written comments must be received on or before November 5, 1992 to ensure consideration. A public hearing will not be conducted.

ADDRESSES: Address written comments to the Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231, marked to the attention of Abraham Hershkovitz. Correspondence may be sent by FAX to the attention of Abraham Hershkovitz at (703) 305-8825.

FOR FURTHER INFORMATION CONTACT: Abraham Hershkovitz by telephone at (703) 305-9282 or by mail marked to his attention and addressed to Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The specific revisions proposed are discussed below:

(1) Copies of Papers (Section 1.13)

The proposed change to § 1.13(a) clarifies that the paragraph pertains to non-certified copies and that copies of patents, trademark registrations and other papers belonging to the Office may be obtained, provided those papers are located in the Office, as opposed to being located in another agency.

The purpose of the proposed amendment to § 1.13(b) is to clarify that certified copies of papers belonging to the Office may be obtained upon payment of the fee for a certified copy.

(2) Patent Applications Preserved in Secrecy (Section 1.14)

Section 1.14(b) is proposed to be amended to correct a typographical error in that the second paragraph of this section was inadvertently deleted during one of the earlier revisions of this section. See 50 FR at 9378 (March 7, 1985). The absence of the second paragraph went unnoticed until recently. It is proposed that § 1.14(b) be amended by including the previous language of the second paragraph and by changing in the first paragraph the plural "applicants" to the singular "applicant".

(3) Effect on Fees of Failure to Establish Status, or Change Status, as a Small Entity (Section 1.28)

Section 1.28(c) is proposed to be modified to reflect Office practice in calculating fee deficiencies when fees have been improperly paid as a small entity. The Office receives deficiency payments that differ based on the submitter's interpretation of § 1.28(c): Some simply double the small entity fee in effect when the fee was originally paid in error, while others compute the difference between the fee already paid and the large entity fee level in effect at the time the deficiency is paid. The Office requires payments to be based on fee levels in effect at the time of the deficiency payment.

Since 1989, fee levels have been adjusted annually. In view of these adjustments, there are frequently situations where the fee amount has changed since it was originally erroneously paid. Calculation of deficiency amounts based on fee levels in effect at the time the deficiency is paid conforms with the general concept that fees to be paid are those in effect at the time of receipt of the fees. For example:

—Where an application is filed under § 1.53(b) without the filing fees that could have been paid at the time of filing the application, any increase in the filing fees prior to payment of the filing fees requires that the filing fees be paid at the higher fee level;

—Where an amendment is filed outside the shortened statutory period set for response and an extension of time under § 1.136(a) is requested prior to a fee increase, the extension fee is the fee required under the old fee schedule. On the other hand, if the extension of time is requested after a fee increase, the extension of time fee necessary is the fee in effect at the time of payment of the fee, which in this case is the fee under a new fee schedule, rather than the one in effect at the time of expiration of the shortened statutory period for response.

Section 1.28(c) is proposed to be modified to more clearly reflect this practice of basing deficiency payments on the fee level in effect at the time of deficiency payment.

(4) Claim for Foreign Priority

The purpose of the proposed amendment to § 1.55(a) is to incorporate the limitations of 35 U.S.C. 119, which provides that the claim for priority and the appropriate copy of the foreign application must be filed before the patent is granted. Some applicants did not realize that submission of priority papers after payment of the issue fee required the filing of a petition to accept late submission of priority papers before issuance of the patent. After a patent is granted, applicants may still be able to establish priority benefits by filing a reissue application to correct the failure to perfect the claim for priority. *Brenner* v. *State of Israel*, 400 F.2d 789, 158 USPQ 584 (D.C. Cir. 1968). The proposed changes in § 1.55(a) list separately the instances when priority documents must be filed to receive the benefit of the filing date of a prior foreign application. Furthermore, § 1.55(a) is proposed to be amended to clarify when a verified English translation of a priority application not in the English language must be filed and to require a statement from the translator indicating that the translation of the priority document is accurate.

(5) Claiming Benefit of Earlier Filing Date and Cross References to Other Applications (Section 1.78)

Section 1.78(a) is proposed to be amended to correct a typographical error. In the reference to § 1.21(l), the numeral (1) appears instead of the letter (l).

(6) Corrections to Drawings (Section 1.85)

Section 1.85(c) is proposed to be amended to indicate that the time for filing formal and corrected drawings required in the Notice of Allowability may no longer be extended under § 1.136(a). The delays in filing corrected drawings resulting from fee extensions of time create an inefficient operation in that issuance of patents is delayed. Furthermore, applicants' ability to transmit proposed drawings (as opposed to formal drawings intended to comply with §§ 1.81 and 1.83 through 1.85) by facsimile transmission, coupled with the fact that examiners will notify applicants at an early stage of any objection to the drawings, will diminish the need for obtaining fee extensions of time. Under the proposed practice, examiners will advise applicants of the need to file formal or corrected drawings at the earliest opportunity, usually in the first Office action. Applicants may postpone the filing of formal or corrected drawings until after the application is allowed by the examiner. The deadline for filing the formal or corrected drawings will be set at the time of mailing the Notice of Allowability. An extension of time may be requested under § 1.136(b) before the period set for response expires, provided applicants are able to show sufficient cause why the extension should be granted. The Office will continue to set a one-month time limit under § 1.135(c) for drawing corrections where the formal and corrected drawings submitted constitute a *bona fide*, but not completely acceptable, response to an Office requirement.

(7) Prohibition of Fee Extensions of Time to File:

(1) Corrected drawings in allowed applications, § 1.85(c);

(2) Reply briefs, § 1.193(b); and (3) requests for oral hearing, § 1.194(b). (Section 1.136(a))

Section 1.136(a) is proposed to be amended by adding three additional situations in which applicants would no longer be able to use fee extensions under § 1.136(a). Rearrangement of § 1.136(a) is proposed so that referenced sections appear in numerical order. The new prohibitions would apply to situations where the request to extend the time is: (1) to permit filing of corrected drawings in allowed applications in accordance with § 1.85(c), (2) to permit filing reply briefs under § 1.193(b), and (3) to permit filing requests for oral hearing under § 1.194(b) before the Board of Patent

Appeals and Interferences. Fee extensions of time to file reply briefs or requests for oral hearing delay final disposition of the appeal, and in the case of a corrected drawing requirement, final disposition of the application.

The Office has considered changing the practice to require payment of the fee and filing the request for an extension of time before the period set for response expires in the situations addressed in this proposed rulemaking, but did not adopt that approach because of the complexity that it would introduce into the system.

Corrected drawings can presently be filed up to six months from an examiner's requirement (with a maximum three-month extension of time). It is proposed that this period be reduced to three months. A three-month period is deemed ample time to file corrected drawings. Since the Office no longer releases drawings for purposes of correction, see § 1.85(b), applicants no longer need time to allow bonded drafting companies to pick up, check out, correct, and return corrected drawings. Applicants have been encouraged to keep the master copy of the drawings for use in making corrections or copies. If the master copy was not kept, one option available to applicants is to inspect the Office application file, make copies of any drawings in the file and make any desired corrections on these copies before submission to the Office. Situations which present a hardship to applicants may be accommodated by filing a petition under § 1.182 to request transfer of drawings from an original application to a new related application or by filing a petition under § 1.183 to request that the provisions of § 1.85(b) be waived so that the drawings may be loaned out for the purpose of making drawing corrections.

Applicants may submit corrected drawings at any time, except where a specific deadline is set by the examiner. Consideration of proposed drawing corrections may be expedited by having informal drawings transmitted by FAX to the examiner. Further, corrected or formal drawings will be required by the examiner at the earliest opportunity, usually in the first Office action. Applicants may postpone filing formal or corrected drawings until after the examiner sets a deadline for such filing, usually in the Notice of Allowability. However, in doing so, applicants assume the risk of not having sufficient time to make the required corrections to overcome objections to the drawings. Therefore, an applicant should file corrected drawings as soon as possible.

Extensions of time for sufficient cause under § 1.136(b) will continue to be available in situations where extensions of time under § 1.136(a) are not available. Extensions of time under § 1.136(b) will be granted only if the request is filed before expiration of the period set for response and only upon a showing of sufficient cause why corrected drawings cannot be timely filed. A request made on the basis of preoccupation with meeting other deadlines, or that the applicant lives overseas, or other similar reasons may not be granted. Similarly, extensions of time may be available under § 1.550(c) in reexamination proceedings.

Under current rules, applicants may file reply briefs or request oral hearings up to six months after an examiner's answer (with a maximum four-month extension of time under § 1.136(a)). Since the backlog of cases awaiting a decision by the Board of Patent Appeals and Interferences has been reduced, these extension requests have resulted in diminished efficiency by prolonging the pendency of applications. The periods specified in §§ 1.193(b) and 1.194(b) are considered sufficient to file a reply brief or request an oral hearing. Therefore, § 1.136(a) is proposed to be amended to prohibit fee extensions of time to file a reply brief or request an oral hearing.

(8) Title, Description and Claim, Oath or Declaration (Section 1.153)

Section 1.153(a) is proposed to be amended to include a requirement that the specification of a design patent application include a clear description of the nature and intended use of the article. A description has not been required in most design applications because the title has been relied on to identify the article in which the design is embodied. However, the nature and intended use of many articles are not readily apparent from the title and the drawing. For example, a design application may be directed to a self-locking insert. Often it is not clear, even from the drawing, how the insert is used or where it should be classified for search and documentation purposes.

This problem is currently being addressed, in Patent Examining Group 290, by mailing a request for information to an applicant prior to the first Office action where the nature or intended use of the article is not evident. About 3,000 such requests were mailed in fiscal year 1991, covering more than 90% of the design applications that were screened for a useful description.

(9) Arrangement of Specification (Section 1.154)

Section 1.154 is proposed to be amended to be consistent with the proposed changes to § 1.153 by including a reference to the requirement for a description of the nature and intended use of the article claimed.

(10) Appeal to the Board of Patent Appeals and Interferences (Section 1.191)

Section 1.191(d) is proposed to be amended to be consistent with the proposed changes to § 1.136.

(11) Appellant's Brief (Section 1.192)

Sections 1.192 (a) and (d) are proposed to be amended by moving the last sentence of current § 1.192(d) to § 1.192(a) to highlight that the Board may refuse consideration of any arguments or authorities not included in the brief.

Section 1.192(c) is proposed to be amended to provide that in a case of a pro se appellant, an appellant appearing without counsel, a brief may be acceptable even though it does not comply with all the requirements of current paragraph (c). An appellant appearing without counsel means there is no attorney or agent of record in the application, the brief was not prepared by a registered practitioner, and the brief was not signed by a registered practitioner. It is proposed to amend paragraph (c) to allow a pro se appellant's brief to be accepted provided it is at least in substantial compliance with the requirements of subparagraphs (1), (2), (6), and (7) of current paragraph (c). If a pro se appellant's brief is accepted, it will be presumed that a rejected group of claims stand or fall together unless an argument is included in the brief that presents reasons as to why appellant considers the rejected group of claims to be separately patentable.

(12) Examiner's Answer (Section 1.193)

Section 1.193(b) is proposed to be amended to clarify the consequence of failure to file a reply brief in response to a new ground of rejection made in an examiner's answer. The failure to file a reply brief will result in dismissal of the appeal as to the claims made subject to the new ground of rejection. If the dismissal of the appeal applies to all claims in the application, the application will be abandoned. Additionally, this section is proposed to be amended to be consistent with the proposed changes to § 1.136.

(13) Oral Hearing (Section 1.194)

Section 1.194(b) is proposed to be amended to be consistent with the proposed changes to § 1.136. Under the current rule, if new grounds of rejection are first made in an examiner's answer, two months are permitted for filing a reply brief and, if a reply brief is filed, an applicant is permitted three months after the date of filing a reply brief to file a request for an oral hearing. In order to provide a more consistent approach vis-a-vis time periods for filing reply briefs and requests for oral hearing and to permit earlier decisions of issues on appeal, it is proposed that the three-month period specified in § 1.194(b) for filing a request for oral hearing be changed to the later of (1) one month from the date of an examiner's answer, or (2) the date of filing a timely reply brief. This period should be sufficient to request an oral hearing. It is further proposed that § 1.194(b) be revised to correct the spelling of the word "reply".

(14) Decision by the Board of Patent Appeals and Interferences (Section 1.196)

Section 1.196(f) is proposed to be amended to refer to § 1.550(c) for extensions of time in reexamination proceedings.

(15) Action Following Decision (Section 1.197)

Section 1.197(b) is proposed to be amended to refer to § 1.550(c) for extensions of time in reexamination proceedings.

(16) Amendments After Allowance (Section 1.312)

The purpose of the proposed amendment to § 1.312(b) is to clarify that the fee required for a petition under this section is that specified in § 1.17(i)(1).

(17) Persons Other Than the Owner Permitted to Sign a Disclaimer as Specified in § 1.321

Section 253 of Title 35 of the United States Codes states that disclaimer of any complete claim in a patent may be made by the patentee. Furthermore, any terminal part of the patent granted or to be granted may be disclaimed by the patentee, or applicant, respectively. It is the current policy of the Office to accept disclaimers only if signed by the owner of record. This policy is too restrictive in that it precludes authorized patent practitioners from signing disclaimers. Furthermore, it is often difficult to ascertain whether the person signing is in fact an officer of the entity owning rights to the application.

The rules allow authorized persons other than the applicant to sign most papers filed in an application. See § 1.33(a)(2)–(5). The requirement that a disclaimer be signed by the owner of record of an application or patent is a departure from the general practice of permitting a registered attorney or agent to sign a wide variety of papers filed in applications and patents, such as amendments, a notice of appeal to the Board of Patent Appeals and Interferences or the Court of Appeals for the Federal Circuit, and amendments and papers in reexamination proceedings.

It is proposed that persons permitted to sign a disclaimer in a patent be the patentee, or an attorney or agent of record, whereas, persons permitted to sign a disclaimer in a patent application by any person specified in § 1.33(a)(1)–(4). The person signing the disclaimer must state the present extent of the disclaiming party's (i.e., patentee's or assignee's) interest in the patent or patent application. Naturally, a disclaimer signed on behalf of a party who no longer has an ownership interest in the patent or patent application cannot be accepted since 35 U.S.C. 253 requires a disclaimer to be signed by the owner of the whole or any sectional interest in the patent or patent application.

If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, Government agency, or similar entity, the disclaimer may be signed by an officer of the organization empowered to act on behalf of the organization. If the person signing is not an officer of the organization, a statement will be required indicating that the person signing was authorized to sign on behalf of the organization. The statement must be a verified statement if made by a person not registered to practice before the Office. Verification may be made by way of a declaration in accordance with § 1.68.

Paragraph (a) of this section is further proposed to be amended to deal only with disclaimers filed in patents. The Office does not record a disclaimer of part of a claim or claims. Hence, paragraph (a) of this section is proposed to be amended to indicate that a disclaimer which does not disclaim a complete claim or claims will be refused recordation, rather than "may be refused recordation" as the rule currently reads.

Paragraph (b) of this section, as proposed, deals only with terminal disclaimers filed in a patent application. Section 1.321(b) is also proposed to be amended to include a reminder that the disclaimer is binding upon the grantee and its successors or assigns.

Proposed new paragraph (c) of this section would incorporate the language of current paragraph (b) of this section dealing with terminal disclaimers to obviate a double patenting rejection and also include reference to terminal disclaimers filed in reexamination proceedings for the same purpose.

(18) Publication of Notices of Proposed Amendments (Section 1.352(a))

The purpose of the amendment to § 1.352(a) is to delete the language "and in the other cases whenever practicable" so that the Office may engage in expedited rulemaking when publication of notice of proposed amendments to regulations is not required by law.

(19) Time for Payment of Maintenance Fees (Section 1.362)

The purpose of the amendment to § 1.362 is to clarify applicability and due dates for payment of maintenance fees. Paragraph (c)(3) of § 1.362 indicates that the actual filing date of a continuing application determines applicability of maintenance fees, while paragraph (c)(4) indicates that in the case of a reissue application, the filing date of the original non-reissue application determines applicability of maintenance fees. Some patentees and patent practitioners expressed confusion with respect to applicability of maintenance fees in the case of a continuing reissue application of a reissue application. Uncertainty has been expressed as to whether this type of application would fall within paragraph (c)(3) or (c)(4). The amendment to § 1.362(c)(4) is proposed in order to clarify that a continuing application of a reissue application is subject to maintenance fees only if the original (non-reissue) patent would be subject to such fees. These amendments also remove any confusion that may have existed with regard to the due dates for payment of maintenance fees in reissued patents by adding § 1.362(h) to specify that the due dates for payment of maintenance fees in such reissued patents are computed from the date of grant of the original (non-reissue) patent.

In a notice published on December 13, 1991, in the Federal Register at 56 FR 65142, the Office announced an amendment to its rules of practice. Included in that notice, was a change to paragraph (e) of § 1.362 which was not intended. See 56 FR at 65146. It is proposed that the portion of paragraph (e) which was not intended to be

amended, be changed back to its earlier version.

(20) International Preliminary Examination Fees (Section 1.482)

Section 1.482(a) is proposed to be amended to correct a typographical error in the spelling of the word "under".

(21) Request by Applicant for Interference With Patent (Section 1.607)

Section 1.607(a)(5)(i) is proposed to be amended to correct a typographical error in the spelling of the word "count".

(22) Export of Technical Data (Section 5.19)

Section 5.19(a) is proposed to be amended to correct the citations set forth in the rule and to update the name of the office in the Department of Commerce that established 15 CFR 770.10(j).

(23) Sharing Legal Fees (Section 10.48)

Section 10.48(b) is proposed to be amended to correct a typographical error in the spelling of the word "deceased".

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Orders 12291 and 12612 and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that these proposed rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these proposed changes is to permit persons other than the assignee of a patent application or patent to sign certain disclaimers, incorporate existing Office policy into the regulations and eliminate the opportunity to pay for extensions of time in certain situations where the extensions substantially interfere with the efficient operation of the Office.

The Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers; individuals; industries; Federal, state or local government agencies; or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

These proposed rule changes, except as noted below, contain a collection of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, which has previously been approved by the Office of Management and Budget under Control No. 0651–0011. Proposed § 1.153 would require a design specification to present a clear description of the nature and use of the article. Public reporting burden for this collection of information is estimated to average two (2) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Abraham Hershkovitz by mail marked to his attention and addressed to Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Project No. 0651–0011.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Freedom of information Inventions and patents, Reporting and recordkeeping requirements.

37 CFR Part 5

Classified information, Exports, Foreign relations, Inventions and patents.

37 CFR Part 10

Administrative practice and procedure, Conflicts of interest, Courts, Inventions and patents, Lawyers.

For the reasons set out in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, it is proposed to amend 37 CFR parts 1, 5, and 10 as follows, wherein deletions are indicated by brackets ([ ]) and additions by arrows (> <):

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.13 is proposed to be revised to read as follows:

§ 1.13 Copies and certified copies.

(a) [Copies] >Non-certified copies< of patents and trademark registrations and of any records, books, papers, or drawings belonging to >and located in< the Patent and Trademark Office and open to the public, will be furnished by the Patent and Trademark Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) [Such] >Certified< copies will be authenticated by the seal of the Patent and Trademark Office and certified by the Commissioner, or in his name attested by an officer of the Patent and Trademark Office authorized by the Commissioner, upon payment of the fee for the >certified copy< [authentication certificate in addition to the fee for the copies].

3. Section 1.14, paragraph (b) is proposed to be revised as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(b) Except as provided in § 1.11(b) abandoned applications are likewise not open to public inspection, except that if an application referred to in a U.S. patent, or in an application in which the [applicants] >applicant< has filed an authorization to open the complete application to the public, is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. >Complete applications (§ 1.51(a)) which are abandoned may be destroyed after 20 years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.<

* * * * *

4. Section 1.28, paragraph (c) is proposed to be revised as follows:

§ 1.28 Effect on fees of failure to establish status, or change status, as a small entity.

* * * * *

(c) If status as a small entity is establish in good faith, and fees as a small entity are paid in good faith, in

any application or patent, and it is later discovered that such status as a small entity was established in error or that through error the >Patent and Trademark< office was not notified of a change in status as required by paragraph (b) of this section, the error will be excused:

(1) If any deficiency between the amount paid and the amount due is paid within three months after the date the error occurred or

(2) if any deficiency between the amount paid and the amount due is paid more than three months after the date the error occurred and the payment is accompanied by a [verified] statement explaining how the error in good faith occurred and how and when [it] >the error< was discovered. >The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The deficiency is based on the amount due at the time the deficiency is paid in full.<

* * * * *

5. Section 1.55, paragraph (a) is proposed to be revised to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be file>:

(1)< In the case of an interference (§ 1.630);

>(2)< When necessary to overcome the date of a reference relied upon by the examiner; or

>(3)< When specifically required by the examiner; and

>(4)< In all other cases>.< [they must be filed] not later than the date the issue fee is paid.

>If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be filed before the patent is granted and must be accompanied by a petition requesting entry of late priority papers and the fee set forth in § 1.17(i)(1).< If the papers filed are not in the English language, a translation need not be filed except in the [three particular instances specified in the preceding sentence] >case of an interference; or when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner<, in which event [a sworn] >an English< translation [or a translation certified as accurate by a sworn or official translator] must be filed >together with a statement that the translation of the priority papers is accurate. The statement must be a verified statement if make by a person not registered to practice before the Patent and Trademark Office.< [If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i)(1).]

* * * * *

6. Section 1.78, paragraph (a) is proposed to be revised to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross references to other applications.

(a) An application may claim an invention disclosed in a prior filed copending national application or international application designating the United States of America. In order for an application to claim the benefit of a prior filed copending national application, the prior application must name as an inventor at least one inventor named in the later filed application and disclose the named inventor's invention claimed in at least one claim of the later filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, the prior application must be

(1) Complete as set forth in § 1.51 [,] >;< or

(2) Entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16; or

(3) Entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21 [(1)] >(1)< within the time period set forth in § 1.53(d).

Any application claiming the benefit of a prior filed copending national or international application must contain or be amended to contain in the first sentence of the specification following the title a reference to such prior application, identifying it by serial number and filing date or international application number and international filing date and indicating the relationship of the applications. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

* * * * *

7. Section 1.85, paragraph (c) is proposed to be revised to read as follows:

§ 1.85 Corrections to drawings.

* * * * *

(c) When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit acceptable drawings within three months from the mailing of [the] >a< "Notice of Allowability." [Within that three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch.] If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid >abandonment of the application< [the necessity of obtaining an extension of time and paying the extension fee.] Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the >"< Notice of Allowability.>"< The provisions with respect to obtaining an extension of time >under§ 1.136(b) relate< [relates] only to the late filing of corrected drawings. The time limit for payment of the issue fee is a fixed three-month period which cannot be extended as set forth in 35 U.S.C. 151.

8. Section 1.136, paragraph (a) is proposed to be revised to read as follows:

§ 1.136 Filing of timely responses with petition and fee for extension of time and extensions of time for cause.

(a) If an applicant is required to respond within a nonstatutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in § 1.17 are filed prior to or with the response, unless

(1) Applicant is notified otherwise in an Office action,

(2) >The response is a submission of corrected drawings required in the "Notice of Allowability" (see § 1.85(c)).

(3) The response is a reply brief submitted pursuant to § 1.193(b),

(4) The response is a request for an oral hearing submitted pursuant to § 1.194(b),

(5) The response is to a decision by the Board of Patent Appeals and Interferences pursuant to §§ 1.196, 1.197 or 1.304, or

(6)< The application is involved in an interference declared pursuant to § 1.611 [or (3) the response is to a decision by the Board of Patent Appeals and Interferences pursuant to §§ 1.196, 1.197 or 1.304].

The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.136(b) >for extensions of time to file corrected drawings under § 1.85(c) and< for >extensions of time relating to proceedings pursuant to § >§ 1.193(b), >1.194,< 1.196 or [§] 1.197 [,] >. See< § 1.304 for extension of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action [,] >. See< § 1.645 for extension of time in interference proceedings and § 1.550(c) for extension of time in reexamination proceedings.

* * * * *

9. Section 1.153, paragraph (a) is proposed to be revised to read as follows:

§ 1.153 Title, description and claim, oath or declaration.

(a) The title of the design must designate the particular article. [No description, other than a reference to the drawing, is ordinarily required.] >The specification must present a clear description of the nature and intended use of the article.< The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

* * * * *

10. Section 1.154, paragraph (c) is proposed to be revised to read as follows:

§ 1.154 Arrangement of specification.

* * * * *

(c) Description, [if any] >including the nature and intended use of the article (see § 1.1539a))<.

* * * * *

11. Section 1.191, paragraph (d) is proposed to be revised to read as follows:

§ 1.191 Appeal to Board of Patent Appeals and Interferences.

* * * * *

(d) >The time periods set forth in §§ 1.191 and 1.192 are subject to the provisions of § 1.136 for patent applications and § 1.550(c) for reexamination proceedings.< The time periods set forth in §§ [1.191 through] 1.193 >, 1.194, 1.196 and 1.197< are subject to the provisions of § 1.136 >(b)< for patent applications or § 1.550(c) for reexamination proceedings. See § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action.

* * * * *

12. Section 1.192, paragraphs (a), (c), and (d) are proposed to be revised to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the notice of appeal under § 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief in triplicate. The brief must be accompanied by the requisite fee set forth in § 1.17(f) and must set forth the authorities and arguments on which the appellant will rely to maintain the appeal.>Any arguments or authorities not included in the brief may be refused consideration by the Board of Patent Appeals and Interferences.<

* * * * *

(c) The brief shall contain the following items under appropriate headings and in the order here indicated >unless the brief is filed by an appellant appearing without counsel wherein the brief will be accepted as complying with this paragraph provided it is at least in substantial compliance with the requirements of paragraphs (c)(1), (2), (6), and (7)<:

(1) *Status of claims.* A statement of the status of all the claims, pending or cancelled, and identifying the claims appealed.

(2) *Status of amendments.* A statement of the status of any amendment filed subsequent to final rejection.

(3) *Summary of invention.* A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

(4) *Issues.* A concise statement of the issues presented for review.

(5) *Grouping of claims.* For each ground of rejection which appellant contests and which applies to more than one claim, it will be presumed that the rejected claims stand or fall together unless a statement is included that the rejected claims do not stand or fall together, and in the appropriate part or parts of the argument under paragraph (c)(6) of this section appellant presents reasons as to why appellant considers the rejected claims to be separately patentable.

(6) *Argument.* The contentions of the appellant with respect to each of the issues presented for review in paragraph (c)(4) of this section, and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on. Each issue should be treated under a separate heading.

(i) For each rejection under 35 U.S.C. 112, first paragraph, the argument shall specify the errors in the rejection and how the first paragraph of 35 U.S.C. 112 is complied with, including, as appropriate, how the specification and drawings, if any,

(A) Describe the subject matter defined by each of the rejected claims,

(B) Enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and

(C) Set forth the best mode contemplated by the inventor of carrying out his or her invention.

(ii) For each rejection under 35 U.S.C. 112, second paragraph, the argument shall specify the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(iii) For each rejection under 35 U.S.C. 102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

(iv) For each rejection under 35 U.S.C. 103, the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art. If the rejection is based upon a combination of references, the argument shall explain why the references, taken as a whole, do not suggest the claimed subject matter, and shall include, as may be appropriate, an explanation of why features disclosed in one reference may not properly be combined with features disclosed in another reference. A general argument that all the limitations are not described in a single reference does not satisfy the requirements of this paragraph.

(v) For any rejection other than those referred to in paragraphs (c)(6) (i) to (iv) of this section, the argument shall specify the errors in the rejection and

the specific limitations in the rejected claims, if appropriate, or other reasons, which cause the rejection to be in error.

(7) *Appendix.* An appendix containing a copy of the claims involved in the appeal.

(d) If a brief is filed which does not comply with [all] the requirements of paragraph (c) of this section, the appellant will be notified of the reasons for non-compliance and provided with a period of one month within which to file an amended brief. If the appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will be dismissed. [Any arguments or authorities not included in the brief may be refused consideration by the Board of Patent Appeals and Interferences.]

13. Section 1.193, paragraph (b) is proposed to be revised to read as follows:

§ 1.193 Examiner's answer.

* * * * *

(b) The appellant may file a reply brief directed only to such new points of argument as may be raised in the examiner's answer, within one month from the date of such answer. The new points of argument shall be specifically identified in the reply brief. If the examiner determines that the reply brief is not directed only to new points of argument raised in the examiner's answer, the examiner may refuse entry of the reply brief and will so notify the appellant. If the examiner's answer states a new ground of rejection >,< appellant [may] >must< file a reply thereto within two months from the date of such answer >to avoid dismissal of the appeal as to the claims subjected to the new ground of rejection<; such reply may be accompanied by any amendment or material appropriate to the new ground. >See § 1.136(b) for extensions of time for filing a reply brief in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding.<

* * * * *

14. Section 1.194, paragraph (b) is proposed to be revised to read as follows:

§ 1.194 Oral hearing.

* * * * *

(b) If appellant desires an oral hearing, appellant must file a written request for such hearing accompanied by the fee set forth in § 1.17(g) within one month after the date of the examiner's answer. If the examiner's answer states a new ground of rejection and if appellant files a reply as provided for by § 1.193(b), then the written request must be made [within three months after the date of the filing of the replay] >at the time of filing the reply provided for by § 1.193(b), or within one month from the date of an examiner's answer<. If appellant requests an oral hearing and submits therewith the fee set forth in § 1.17(g), an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board. >See § 1.136(b) for extensions of time for requesting an oral hearing in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding.<

* * * * *

15. Section 1.196, paragraph (f) is proposed to be revised to read as follows:

§ 1.196 Decision by the Board of Patent Appeals and Interferences.

* * * * *

(f) See § 1.136(b) for extensions of time to take action under this section >in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding<.

16. Section 1.197, paragraph (b) is proposed to be revised to read as follows:

§ 1.197 Action following decision.

* * * * *

(b) A single request for reconsideration or modification of the decision may be made if filed within one month from the date of the original decision, unless the original decision is so modified by the decision on reconsideration as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states. The request for reconsideration shall state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which reconsideration is sought. See [37 CFR] >§< 1.136(b) for extensions of time for seeking reconsideration >in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding<.

* * * * *

17. Section 1.312, paragraph (b) is proposed to be revised to read as follows:

§ 1.312 Amendments after allowance.

* * * * *

(b) Any amendment pursuant to paragraph (a) of this section filed after the date the issue fee is paid must be accompanied by a petition including the fee set forth in § 1.17(i) >(1)< and a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

18. Section 1.321 is proposed to be revised to read as follows:

§ 1.321 Statutory disclaimer

(a) >A patentee owning the whole or any sectional interest in a patent may disclaim any complete claim or claims in a patent. Such disclaimer is binding upon the grantee and its successors or assigns. The disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed by the patentee, or an attorney or agent of record;

(2) Identify the patent and complete claim or claims being disclaimed;

(3) State the present extent of patentee's ownership interest in the patent; and

(4) Be accompanied by the fee set forth in § 1.20(d).< [A disclaimer under 35 U.S.C. 253 must be accompanied by the fee set forth in § 1.20(d) and identify the patent and the claim or claims which are disclaimed, and be signed by the person making the disclaimer, who shall state therein the extent of his or her interest in the patent.] A disclaimer which is not a disclaimer of a complete claim or claims [may] >will< be refused recordation. A notice of the disclaimer is published in the *Official Gazette* and attached to the printed copies of the specification. In like manner any patentee [or applicant] may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted [or to be granted].

(b) >An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed as provided in § 1.33(a)(1)–(4);

(2) Specify the portion of the term of the patent being disclaimed;

(3) State the present extent of applicant's or assignee's ownership interest in the patent to be granted; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(c)< A terminal disclaimer, when filed [in an application] to obviate a double patenting rejection >in a patent application or in a reexamination proceeding<, must [be accompanied by the fee set forth in § 1.20(d) and] >comply with the provisions of paragraph (b) of this section and also< include a provision that any patent

granted on the application >or any patent subject to that reexamination proceeding< shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

19. Section 1.352 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.352 Publication of notice of proposed amendments.

(a) Whenever required by law, [and in other cases whenever practicable,] notice of proposed amendments to the regulations in this part will be published in the *Official Gazette* and in the Federal Register. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs, received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

* * * * *

20. Section 1.362 is proposed to be amended by revising paragraphs (c)(4) and (e) and adding paragraph (h) to read as follows:

§ 1.362 Time for payment of maintenance fees.

* * * * *

(c) * * *

(4) For a reissue application, >including a continuing application claiming the benefit of a reissue application under 35 USC 120,< the United States filing date of the original nonreissue application on which the patent reissued is based.

* * * * *

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:

>(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.

(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and

(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.<

[(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,

(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and

(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.]

* * * * *

>(h) The periods specified in §§ 1.362(d) and (e) with respect to a reissue application, including a continuing application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based.<

21. Section 1.482, paragraph (a) introductory text is proposed to be revised to read as follows:

§ 1.482 International preliminary examination fees.

(a) The following fees and charges for international preliminary examination are established by the Commissioner [under] >under< the authority of 35 U.S.C. 376:

* * * * *

22. Section 1.607, paragraph (a)(5)(i) is proposed to be revised to read as follows:

§ 1.607 Request by applicant for interference with patent.

(a) * * *

(5) * * *

(i) Identified as corresponding to the [court] >count<, and

* * * * *

PART 5—CLASSIFIED INFORMATION, EXPORTS, FOREIGN RELATIONS, INVENTIONS AND PATENTS

23. The authority citation for 37 CFR part 5 would continue to read as follows:

Authority: 35 U.S.C. 6, 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 *et seq.*, the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, and the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 *et seq.*, and the delegations in the regulations under these acts to the Commissioner (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

24. Section 5.19, paragraph (a) is proposed to be revised to read as follows:

§ 5.19 Export of technical data.

(a) Under regulations [(15 CFR 370.10(j))] >(15 CFR 770.10(j))< established by the U.S. Department of Commerce, [International Trade] >Bureau of Export< Administration, Office of Export [Administration] >Licensing<, a validated export license is not required in any case to file a patent application or part thereof in a foreign country if the foreign filing is in accordance with the regulations (37 CFR 5.11 through [5.23] >5.33<) of the Patent and Trademark Office.

* * * * *

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

25. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

26. Section 10.48, paragraph (b) is proposed to be revised to read as follows:

§ 10.48 Sharing legal fees.

* * * * *

(b) A practitioner who undertakes to complete unfinished legal business of a [decreased] >deceased< practitioner may pay to the estate of the deceased practitioner that proportion of the total compensation which fairly represents the services rendered by the deceased practitioner.

* * * * *

Dated: September 14, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92–22662 Filed 9–18–92; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52
[CA 13–7–5462; FRL–4508–4]

Approval and Promulgation of Implementation Plans (California State Implementation Plan Revision); By Area Air Quality Management District (San Joaquin Valley Unified Air Pollution Control District)

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State implementation plan (SIP) adopted by the Bay Area Air Quality Management District (BAAQMD) and the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) on December 5, 1990 and April 11, 1991 respectively. The California State Air Resources Board (ARB) submitted the BAAQMD rule on May 13, 1991 and the SJVUAPCD rule on May 30, 1991. The revisions concern BAAQMD Regulation 8, Rule 50, Polyester Resin Operations which limits volatile compound (VOC) emissions from the manufacturing of products using polyester resins and SJVUAPCD Rule 466.1, Graphic Arts which regulates

VOC emissions from the graphic arts industry. EPA has evaluated BAAQMD Regulation 8, Rule 50, and the revisions to SJVUAPCD Rule 466.1 and is proposing a limited approval of these rules under sections 110(k)(3) and 301(a) of the Clean Air Act as amended in 1990 (CAA or the Act) because these rules strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110(k)(3) of the CAA because the rules do not meet the Part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments may be mailed to: Esther Hill, Northern California, Nevada, and Hawaii Rulemaking Section (A–5–4), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.
Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.
San Joaquin Valley Unified, Air Pollution Control District, 2314 Mariposa Street, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Daves Hodges, Southern California and Arizona Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188, FAX (415) 744–1076..

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or the 1977 Act) that included the BAAQMD and the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD [1], Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and the Tulare County APCD. 43 FR 8964; 40 CFR 81.305. Because the BAAQMD and the eight air pollution control districts of the San Joaquin Valley Air Basin were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under pre-amended 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987 [2] 40 CFR 52.238. The districts did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that the BAAQMD and the eight districts of the San Joaquin Valley Air Basin portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. BAAQMD is classified as moderate and the SJVUAPCD is classified as serious [4]; therefore, these areas are subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on May 13, 1991 and May 30, 1991, including the rules being acted on in this notice. This notice addresses EPA's proposed action for BAAQMD Regulation 8, Rule 50, Polyester Resin Operations and SJVUAPCD Rule 466.1, Graphic Arts. These submitted rules were found to be complete on July 10, 1991 pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, appendix V [5] and are being proposed for limited approval an limited disapproval.

BAAQMD Regulation 8, Rule 50, which is a new rule, controls the emission of VOCs from the manufacturing or products using polyester resins. VOCs contribute to the production of ground level ozone and smog. SJVUAPCD Rule 466.1 was originally adopted as part of SJVUAPCD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and has been revised in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for BAAQMD Regulation 8, Rule 50 and SJVUAPCD Rule 466.1.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for major

[1] At that time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1990).

[2] This extension was not requested for Kern County. Thus, Kern County's attainment date remained December 31, 1982.

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed Post–1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The BAAQMD and the SJVUAPCD retained their nonattainment designations and were classified, respectively, as moderate and serious operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[5] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the Act. See 56 FR 42216 (August 26, 1991).

stationary sources of VOC emissions in ozone nonattainment areas. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the Act, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to Rule 466.1 is entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VII: Graphic Arts—Rotogravure and Flexography," EPA document # EPA–450/2–78–033. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP. For some emission categories, such as polyester resin operations, EPA did not publish a CTG. In cases such as this, the determination of what controls are RACT is based on a site specific review of the circumstances at the individual facility, considering the technological and economic feasibility of proposed controls.

BAAQMD Regulation 8, Rule 50, Polyester Resin Operations

This rule limits the emission of VOCs from polyester resin operations by setting standards which affect the application and curing of resin, gel coat application and curing, and clean-up solvents. Standards for resins and gel coats are not applicable to polyester resin operations that choose to install and operate emission control equipment. To aid in further reduction of VOC emissions, the rule sets storage requirements for surface preparation and cleanup solvents. Recordkeeping and test methods are also specified in the rule.

SJVUAPCD Rule 466.1 Graphic Arts replaces the existing graphic arts rules within the SJVUAPCD and includes the following revisions from the current SIP rules:

—Letterpress and lithographic operations are now subject to regulation under these rules;
—The exemption cutoff has been reduced from 15 tons of VOC per year to 75 pounds of VOC per day;
—The VOC definition has been revised for consistency with EPA requirements; [6]
—The emission control equipment requirement for publication gravure printing must achieve 95% efficiency;
—Emissions reductions of 85% from a printing line must be based on daily emissions for publication gravure printing;
—The emission control equipment efficiency requirement for screen printing, flexographic printing, offset lithography, letterpress or related coating or laminating process, printing or coating on porous or nonporous substrate has been increased from 90% to 95%;
—Emissions reductions of 75% from a printing line must be based on daily emissions for screen printing, flexographic printing, offset lithography, letterpress or related coating or laminating process, printing or coating on porous or non porous substrate;
—A requirement that fountain solutions will contain no more than 15% VOC (by volume) as applied has been added;
—The emission collection system must have a capture efficiency of at least 90%;
—Surface cleanup materials must not be stored in open containers;
—Inclusion of recordkeeping, test method and compliance provisions;
—The years to be used for calculation of baseline emissions are given.

EPA has evaluated BAAQMD Regulation 8, Rule 50 and SJVUAPCD Rule 466.1 for consistency with the CAA, EPA regulations, and EPA policy. EPA has found that the SJVUAPCD rule revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules. The SJVUAPCD Rule 466.1 contains changes which should lead to emission reductions and include: A more stringent exemption cutoff; increased efficiency for emission control systems used with screen printing; flexographic printing; offset lithography; letterpress or related printing operations; and a VOC limit for fountain solutions. The SJVUAPCD rule contains recordkeeping and test method provisions for coatings, inks, and cleanup solvents which will improve the enforceability of the rule. The addition of the new BAAQMD Regulation 8, Rule 50 should lead to emission reductions as there is currently not a BAAQMD rule regulating this source in the SIP.

Although BAAQMD Regulation 8, Rule 50, KCAPCD Rule 410.7 and SJVUAPCD Rule 466.1 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA.

BAAQMD Regulation 8, Rule 50 permits compliance through the use of emission control equipment that achieves an 85% control device efficiency, but it fails to specify a capture efficiency requirement for collection of emissions to be delivered to the control device. The rule also proposes to use a test method (Manual of Procedures, Volume IV, ST–7) that has been found unacceptable by EPA for measuring VOC emissions controlled by an incinerator or other combustion device. In addition, the rule also proposes the use of several BAAQMD test methods that are currently undergoing review by EPA. Should EPA find the BAAQMD test methods inappropriate for their intended use, this will be considered a deficiency, and the BAAQMD must correct the rule to cite the appropriate test methods. A detailed discussion of rule deficiencies can be found in the Technical Support Document for Regulation 8, Rule 50, which is available from the U.S. EPA, Region 9 office.

SJVUAPCD Rule 466.1 contains three deficiencies. These deficiencies include: (1) Failure to specify recordkeeping requirements for fountain solutions and adhesives; (2) failure to specify a test method to determine compliance with VOC limits set for fountain solutions and adhesives; and (3) a requirement that measurement of VOC content in non-heatset inks be performed with a test method found unacceptable by EPA. The rule also proposes the use of an ARB test method that is currently undergoing review by EPA. Should EPA find the ARB test method inappropriate for its intended use, this will be considered a deficiency, and the BAAQMD must correct the rule to cite the appropriate test method. A detailed discussion of these rule deficiencies can be found in the Technical Support Document for Rule 466.1, which is available from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because

[6] On February 2, 1992, EPA published a final rule establishing the definition of volatile organic compound (VOC) and withdrew its policy document that previously provided that definition. In its rule EPA exempted several compounds from the definition of VOC that were not exempt under EPA's previous policy. For purposes of federal enforceability, EPA is only approving the SJVUAPCD Rule 466.1 definition to the extent that it is consistent with EPA amended definition.

they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and Part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of BAAQMD Regulation 8, Rule 50 and SJVUAPCD Rule 466.1.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. At the end of that period, if EPA has not approved these rules as meeting the applicable requirements of section 182(a)(2)(A), EPA will impose one of these two sanctions. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under sections 110 and 301 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPS on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 11, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–22789 Filed 9–18–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[CA–12–16–5590; FRL–4508–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision (Bay Area Air Quality Management District)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of the revisions to the California State Implementation Plan (SIP) adopted by the Bay Area Air Quality Management District (Bay Area AQMD) on June 20, 1990. The California Air Resources Board submitted these revisions to EPA on April 5, 1991. The revisions concern Bay Area AQMD's, Rule 8–14, Surface Coating of Large Appliances and Metal Furniture and Rule 8–19, Surface Coating of Miscellaneous Metal Parts and Products. These rules control the emissions of volatile organic compounds (VOC) from surface coating of large appliances, metal furniture, and miscellaneous metal parts. EPA has evaluated the revisions to Rules 8–14 and 8–19 and is proposing a limited approval under sections 110 (k)(3) and 301 (a) of the Clean Air Act, as amended in 1990 (CAA or the Act) because these revisions strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110 (k)(3) and 301 (a) of the CAA because the rules do not meet the Part D, section 182 (2)(A) requirement of the CAA.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments may be mailed to: Esther J. Hill, Northern California, Nevada and Hawaii Rulemaking Section (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business

hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.
Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Southern California and Arizona Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, telephone: (415) 744–1195, Fax: (415) 744–1076.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the San Francisco-Bay Area (Bay Area). 43 FR 8964, 40 CFR 81.305. Because the Bay Area was unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under pre-amended section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California that the Bay Area AQMD's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP–Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.[1] EPA's SIP–Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Bay Area AQMD is classified as moderate; [2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on April 5, 1991, including the rule being acted on in this notice. This notice addresses EPA's proposed action for Rules 8–14, Surface Coating of Large Appliances and 8–19, Surface Coating of Miscellaneous Metal Parts and Products. These submitted rules were found to be complete on May 21, 1991 pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, appendix V [3] and are being proposed for limited approval and limited disapproval.

Rule 8–14 limits emissions of volatile organic compounds (VOC) from operations at large appliances and metal furniture facilities and Rule 8–19 limits emissions of VOC from operations at miscellaneous metal parts and products facilities. VOCs contribute to the production of ground level ozone and smog. Bay Area AQMD's Rules 8–14 and 8–19 were orginally adopted as part of Bay Area AQMD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for Bay Area AQMD Rules 8–14 and 8–19.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rules for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among the provisions of the CAA is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to Rule 8–14 are entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources, (Volume V: Surface Coating of Large Appliances), EPA document #EPA–450/2–77–034 and (Vol III: Surface Coating of Metal Furniture), EPA documents #EPA–450/2–77–032". The CTG applicable to Rule 8–19 is entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources—(Volume VI: Surface Coating of Miscellaneous Metal Parts and Products), EPA–450/2–78–015". Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

Both Bay Area AQMD submitted Rule 8–14, Surface Coating of Large Appliances and Metal Furniture and Rule 8–19, Surface Coating of Miscellaneous Metal Parts and Products includes the following revisions from the current SIP rules:

- Exemptions for Adhesives, Aerosol Cans, and Powder Coatings
- Deletion and Addition of Definitions to update and clarify the rules
- Deletion of Interim Standards
- Addition of several sections under standards: (1) Prohibition of Specifications; (2) Compliance Statement Requirement: (3) Specialty Coating Limitations; and (4) Surface Preparation and Cleanup Solvent
- Expired Compliance Schedules were deleted and the new Compliance Dates are included in the Standards Section
- A Monitoring and Records section was added to comply with recordkeeping requirements.

EPA has evaluated Bay Area AQMD's submitted Rules 8–14 and 8–19 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Bay Area AQMD was redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act to be codified at CFR part 51, appendix V. See 56 FR 42216 (August 26, 1991).

deficiencies have resulted in clearer, more enforceable rules.

Although the approval of Bay Area AQMD's Rules 8–14 and 8–19 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA. The rules contain a low usage coating exemption that exceeds EPA's policy limit, specialty coating limits that exceed the limits of the applicable CTG and a test method that has not been fully approved by EPA. A detailed discussion of the rule deficiencies can be found in the Technical Support Documents for Rules 8–14 and 8–19, which are available from the U.S. EPA, Region IX office. Because of these deficiencies, the rules are not approvable pursuant to the section 182(a)(2)(A) of the CAA because they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and Part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval, due to the fact that the rules do not meet the section 182(a)(2)(A) requirement of Part D because of the noted deficiencies. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of Bay Area AQMD's submitted Rules 8–14 and 8–19 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiencies have been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under sections 110 and 301, and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301, and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as its rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 11, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–22790 Filed 9–18–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[VA4–1–5618 A–1–FRL–4508–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Issuance of Federally Enforceable Operating Permits Under the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision would add subsection 120–08–04, entitled, Permits—Operating, Part VIII—Permits for Stationary Sources, Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution to the Virginia SIP. The intended effect of this action is to propose approval of a SIP revision request by the Commonwealth of Virginia to approve and incorporate regulations for the issuance of federally enforceable operating permits.

DATES: Comments must be received on or before October 21, 1992. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; and the Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 597–4713.

SUPPLEMENTARY INFORMATION: On July 18, 1991, the Virginia Department of Air Pollution Control (VDAPC) submitted a revision to the Commonwealth of Virginia's State Implementation Plan (SIP) for the approval and incorporation of regulations for the issuance of federally enforceable operating permits. The revision consists of the addition of subsection 120–08–04, entitled, Permits—Operating, Paragraphs A.–S., Part VIII—Permits for Stationary Sources, Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution.

The Commonwealth of Virginia adopted these regulations in order to have the authority to issue federally enforceable operating permits under its SIP. It must be clearly noted that the Commonwealth of Virginia did not adopt the operating permit regulations of subsection 120–08–04 or submit them as a SIP revision to satisfy the requirements of title V of the Clean Air Act Amendments of 1990 (CAAA). The Commonwealth commenced the adoption of subsection 120–08–04 in July of 1990, prior to the passage of the CAAA on November 15, 1990. The formal letter dated July 18, 1991, officially submitting the Commonwealth's SIP revision request, clearly indicates that the Subsection 120–08–04 operating permit regulations were not submitted to meet the title V requirements of the CAAA. Other administrative portions of the Commonwealth's July 18, 1991 submittal recognize that subsection 120–08–04 will have to be amended to meet the requirements of title V promulgated by EPA. **Note:** EPA has promulgated these requirements for State Operating Permit Programs on July 21, 1992 at 40 CFR part 70 (57 FR 32250). The Commonwealth's July 18, 1991 submittal correctly states that the operating permit program required by title V of the CAA is not due to EPA until November 15, 1993, and that EPA has a year to take action on that title V operating permit program submittal.

The Commonwealth's principal purpose for adopting the operating permit regulations of subsection 120–08–04 is to have a federally enforceable means of expeditiously reducing allowable emissions and/or mitigating the air quality impacts from existing sources to protect the national ambient air quality standards (NAAQS) while allowing for the construction, and operation of new and modified industrial sources in the Commonwealth.

The modeling analyses required by the permitting process for new and modified sources reveals, at times, that the allowable emissions (although not necessarily the actual emissions) of existing sources cause or significantly contribute to violations of the NAAQS. Until this is remedied by federally enforceable measures, a new source or modification which would significantly impact the same area may not be allowed to operate. Unless the SIP expressly provides for the issuance of federally enforceable operating permits, the only mechanism available to impose federally enforceable requirements on an existing source is by a source-specific SIP revision. The Commonwealth adopted the regulations of subsection 120–08–04 for incorporation into its SIP to have a more expeditious means to impose federally enforceable requirements on an existing source is by a source-specific SIP revision. The Commonwealth adopted the regulations of subsection 120–08–04 for incorporation into its SIP to have a more expeditious means to impose federally enforceable requirements on existing sources for protection of the NAAQS, and to manage its air quality resources by providing for the construction and operation of new sources in Virginia.

Background

On June 28, 1989 (54 FR 27285), EPA promulgated amendments to 40 CFR part 51, § 51.165(a)(1)(xiv), the definition of the term "federally enforceable" to include all limitations and conditions of regulations approved pursuant to 40 CFR part 51, including operating permits issued under a EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under that program. In the same **Federal Register**, cited above, EPA provides its rationale for allowing States to incorporate regulatory programs in their SIPs for the issuance of federally enforceable operating permits. That notice also lists five criteria for approval of State operating permit programs (54 FR 27282), clearly stating that EPA considers operating permits as federally enforceable if they are issued pursuant to permitting programs (approved into the SIP) that meet the five criteria.

Summary of the SIP Revision and Criteria for Approval

The formal letter dated July 18, 1991 submitting the Commonwealth's SIP revision request specifically states that the revisions are being made to make the limitations, terms, and conditions of state issued operating permits federally enforceable as provided in 40 CFR part 51, § 51.165(a)(1)(xiv). Each of the five criteria for approval of a state's program for the issuance of federally enforceable operating permits under its SIP and how the Commonwealth's submittal satisfies those criteria are presented below:

Criterion 1. The state's operating permit program (i.e. the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision: On July 18, 1991, the Commonwealth of Virginia submitted an administratively and technically complete SIP revision request to EPA consisting of subsection 120–08–04, Paragraphs A.–S. of Part VIII—Permits for Stationary Sources of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. That SIP revision is the subject of this rulemaking action.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable;" by EPA: Subsection 120–08–04 contains legally binding regulatory provisions which satisfy this criterion including the provisions of Paragraphs A. Applicability; B. Definitions, particularly of the term "federally enforceable;" C. General [Requirements]; F. Standards and Conditions for Granting Permits, particularly subparagraph 1.a. which requires that sources operate in accordance with the provisions of the operating permits regulations; Q. Amendments to Permits; and R. Enforcement.

Criterion 3. The state operating permit program must require that all emission

limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "federally enforceable" (e.g. standards established under sections 111 and 112 of the Clean Air Act): Subsection 120–08–04 contains regulatory provisions which satisfy this criterion including the provisions of Paragraphs B. Definitions, particularly of the term "federally enforceable;" and F. Standards and Conditions for Granting Permits, particularly subparagraph 1.d. which requires that the SIP be met.

Criterion 4. The limitations, controls, and requirements of the state's operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter: Subsection 120–08–04 contains regulatory provisions which satisfy this criterion including the provisions of Paragraphs E. Information Required; F. Standards and Conditions for Granting Permits; H. Application Review and Analysis; I. Compliance Determination and Verification by Testing; J. Monitoring Requirements; K. Reporting Requirements; and R. Enforcement. In particular, subparagraphs E. 1.a. and b. require that sources' applications provide information specifically for the calculations of emissions, and the validity of those calculations for compliance purposes.

Criterion 5. The state operating permits must be issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide to EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be "federally enforceable." This process must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permits: Subsection 120–08–04 contains regulatory provisions which satisfy this criterion at Paragraph S. Public Participation. Furthermore, the VDAPC has agreed to provide EPA with proposed and final permits.

EPA's review of this SIP revision indicates that the criteria for approval as provided in the **Federal Register** on June 28, 1989 (54 FR 27282) have been satisfied. EPA is proposing to approve the Commonwealth of Virginia's SIP revision for the issuance of federally enforceable permits under the Virginia SIP, which was submitted on July 18, 1989. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this notice.

Proposed Action

EPA is proposing to approve the July 18, 1989 request by the Commonwealth of Virginia to amend its SIP to add subsection 120–08–04, entitled, Permits—Operating, Part VIII, Permits for Stationary Sources, Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution.

The Agency has reviewed this request for revision of the federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of a state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (S. Ct 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

The Regional Administrator's decision to approve or disapprove the Commonwealth of Virginia's SIP revision request to add regulations for issuing federally enforceable state operating permits will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7671.

Dated: September 11, 1992.

W. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 92–22791 Filed 9–18–92; 8:45 am]

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40 CFR Part 228

[FRL–4506–4]

Ocean Dumping; Proposed Expansion of Designated Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to temporarily expand the boundaries of three of four designated ocean dredged material disposal sites (ODMDS) located offshore of the mouth of the Columbia River, to restrict site use to maintenance dredging material from the Columbia River federal navigation

project, in the States of Washington and Oregon, and to alter conditions of site use. The specific sites to be expanded are Site A, Site B, and Site F; the fourth site, Site E, will not be expanded but use and management also will be altered. This action is an interim response to prevent the development of a hazard to navigation and to continue to allow maintenance of the federal project while Region 10, EPA, and Portland District, Corps of Engineers (Corps), scope and conduct the necessary studies to develop a long-term management plan. This proposed expansion of sites is for a period of time not to exceed five years. Use of the expanded sites will be subject to continued monitoring to insure that unacceptable, adverse environmental impacts do not occur.

DATES: Comments must be received on or before November 5, 1992.

ADDRESSES: Comments on this proposed rule should be sent to: John Malek, Ocean Dumping Coordinator, EPA, Region X, WD-128, 1200 Sixth Avenue, Seattle, Washington 98101.

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), room 2904 (rear), 401 M Street Southwest, Washington, DC

EPA Region 10, 1200 Sixth Avenue, Seattle, Washington

U.S. Army Corps of Engineers, North Pacific Division, U.S. Custom House, 220 Northwest Eighth, Portland, Oregon

U.S. Army Corps of Engineers, Portland District, 333 Southwest First, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Malek, 206/553-1286.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator the authority to designate sites where ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. Management of ocean dumping sites is also delegated to the Regional Administrator. This designation of expanded sites is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR chapter I, subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in part 228. A list of "Approved and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was last updated on February 2, 1990 (55 FR 3688 *et seq.*).

The four, existing sites off the mouth of the Columbia River were designated by EPA in a final rule published in the **Federal Register** (51 FR 29923-29927) on August 21, 1986. The designations became effective on September 22, 1986. Since that time, the sites have received an average annual volume of 5 million cubic yards of maintenance dredged material principally from the Corps' mouth of the Columbia River (MCR) channel of the Columbia River project. Other volumes of suitable material have been disposed, particularly at Site F, under section 103 permit issued by the Corps. Although not considered "dispersive" sites, in that large percentages of the discharge sediments were predicted to remain within the sites; erosion and redistribution were expected to occur that would prevent the development of mounds. Dispersal rates have been low and Corps bathymetric surveys are showing significant mounding at sites A, B, and F. Site E, located adjacent to the entrance channel, is not experiencing mounding. The developing mounds at sites, A, B, and F threaten to create a hazardous condition for large and small craft due to waves refracting from and breaking over and around the mounds. Commercial shippers, crabbers, and the U.S. Coast Guard have expressed concern over this situation. While the current situation does not constitute an imminent hazard to life and property which would warrant an emergency response, EPA and the Corps are in agreement that prudent management action is required now in order to prevent such a situation from developing.

In initial meetings during Summer 1992, EPA and the Corps concluded that an interim solution was required that would allow the Columbia River federal channel to remain open while studies were conducted to ascertain the extent of the problem, to develop and evaluate alternative solutions, and to prepare a longer term response. The interim response, which includes the temporary expansion and change in site management, is conditioned on the initiation of necessary studies and development of a long-term response. Some studies have already been initiated by Portland District and Region 10.

It is expected that the long-term response could include designation of new ODMDS, permanent expansion of some or all of the existing ODMDS, de-designation of at least one existing ODMDS, and development of a comprehensive management plan to guide disposal of dredged material from the federal project and other suitable material from the Columbia River estuary. This joint study is anticipated to began in late 1992 in coordination with a proposed Columbia River deepening feasibility study being conducted by the Corps. It is anticipated that this joint study for long-term disposal will be completed in no more than 4 years. Scoping of studies and development of a long-term management plan would require coordination with other federal agencies and the states of Oregon and Washington. EPA would complete the final site designation process using their authority under section 102 of the MPRSA.

This temporary expansion of the three sites is being published as proposed rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (NEPA), requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

The object of NEPA is to build into agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations. 39 FR 16186 (May 7, 1974).

The EPA's national Office of Water prepared and circulated the Final EIS for the *Mouth of Columbia River Dredged Material Disposal Site Designation* in February 1983. That EIS evaluated five potential ocean dumping sites. The existing four sites were designated by EPA in a final rule published in the **Federal Register** on August 21, 1986 and the designations became effective on September 22, 1986.

The Corps and EPA have prepared an environmental assessment (EA) to address administrative action of both agencies. A copy of the EA may be obtained from Region 10 or Portland District. The proposed action is the temporary expansion of EPA-designated ODMDSs A, B, and F, and changing site management at these sites and site E

which will more specifically direct the disposal of dredged material at the expanded sites. A critical condition of this temporary measure will be the initiation of a dredged material management study by EPA and the Corps. The temporary expansion will allow needed maintenance dredging of the MCR project to continue without exacerbating the mounding problem while studies are conducted to develop a long-term management plan for disposal of material from the mouth of the Columbia River and the estuary. The EA supports two administrative actions related to the proposed action:

(1) A Public Notice (dated August 7, 1992) by the Corps to identify the expanded ODMDS A, B, and F under the provisions of section 103 of the MPRSA in accordance with Corps regulations 33 CFR parts 335–338 for Corps use to place maintenance dredged material from the Mouth of the Columbia River (MCR) federal navigation project.

(2) Publication of proposed and final rule in the **Federal Register** by EPA to temporarily expand EPA-designated ODMDSs A, B, and F, and change site management at these sites and site E which will more specifically direct the disposal of dredged material at the expanded sites. The temporary expansion and continued use of these ODMDSs will be conditioned on (a) initiation of joint Corps/EPA studies and development of a long term solution to disposal of dredged material from the Mouth of the Columbia River and Columbia River estuary; and (b) restriction of disposal at these sites during the estimated 4–5 year "interim" period to maintenance-dredged material from the Columbia River navigation project.

It is the joint determination of the Portland District Corps and Region 10 EPA that the proposed expansion will not result in any significant effect on the aquatic or human environment and that preparation of an environmental impact statement (EIS) for this temporary expansion and adjustment of disposal management practices is not required.

At this time it is uncertain whether implementation of a long-term management plan for disposal of dredged material at the mouth of the Columbia River would result in significant impacts that would necessarily trigger preparation of an EIS pursuant to the requirement of the National Environmental Policy Act (NEPA). Nevertheless, EPA has a voluntary policy to prepare EISs to support designation of ODMDS. Additionally, an EIS has been determined to be necessary to support the feasibility studies and perhaps subsequent actions in conjunction with the proposed Columbia River channel deepening study. EPA will be a cooperating agency under NEPA on that deepening EIS. It is the intention of EPA and the Corps that appropriate NEPA documentation and coordination occur. This may involve preparation of a separate EIS for implementation of the selected long term solution or incorporation of that evaluation as part of the Corps' project EIS. Initiation of scoping for the feasibility study and the long-term management plan will occur concurrently early in fiscal year 1993. A decision by the EPA and Corps on how NEPA compliance will be achieved will be made sometime after that. To the extent that studies and administrative processes can be coordinated and cost-savings realized, joint meetings will be held, single documents useful to both actions will be prepared, and studies conducted.

C. Proposed Site Description

The four existing sites are described in the final rule designation (51 FR 29923–29927) which appeared in the **Federal Register** on August 21, 1986. The proposed expansion of the existing ODMDSs, including location descriptions and coordinates for each site (North American Datum 1983), are listed below:

Site A

This ODMDS will double in size to approximately 8,000 by 4,000 feet for a surface area of 0.86 square miles (2.23 square kilometers). The site would have an average depth of 70 feet (21.3 m). The four corner coordinates (NAD 1983) of the expanded site are:

46°13'02" N	124°06'21" W
46°12'36" N	124°05'39" W
46°11'52" N	124°06'38" W
46°12'18" N	124°07'18" W

Use of the existing Site A has been discontinued until existing mounding has dissipated. Monitoring will determine when material can again be placed within the boundaries of the existing Site A. In any event, any future disposal likely will be restricted to the outer third of an expanded Site A and will occur in a fashion to minimize acoumulation.

Site B: This ODMDS will double in size to approximately 6,000 by 4,000 feet for a surface area of 0.86 square miles (2.23 square kilometers). The site would have an average depth of 125 feet (38.1 m). The four corner coordinates (NAD 1983) of the expanded site are:

46°14'45" N	124°10'44" W
46°13'52" N	124°10'05" W
46°13'34" N	124°10'55" W
46°14'26" N	124°11'35" W

Site F: This ODMDS will expand to approximately 10,000 by 10,000 feet for a surface area of 3.59 square miles (9.29 square kilometers). The site would have an average depth of 125 feet (38.1 m). The four corner coordinates (NAD 1983) of the expanded site are:

46°13'09" N	124°09'07" W
46°12'00" N	124°07'24" W
46°10'49" N	124°09'03" W
46°11'58" N	124°10'45" W

If at any time disposal operations at any of the ODMDS sites cause unacceptable adverse impacts, further use will be restricted or terminated. Monitoring will occur as part of the joint EPA/Corps studies.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ODMDS sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, the use of that site will be restricted or terminated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed ODMDS site to assure that the general criteria are met.

The existing ODMDS sites were evaluated and found to be acceptable under the five general criteria, except for the preference for sites located off the Continental Shelf, and for the eleven specific factors. Monitoring of site use by the Corps and EPA identified the current mounding situation. The Corps and EPA have determined that while the current situation does not constitute an imminent hazard to life and property which would warrant an emergency response, prudent management action is required now in order to prevent such a situation from developing. Based on the information presented in the final EIS, the final Rule, and an EA prepared for this interim action, the Corps and EPA have determined that this proposed expansion would not result in significant and unacceptable environmental effect.

Approximately five million cubic yards of dredged material is removed annually from the MCR segment of the Columbia River Federal navigation channel. This material is principally clean sand. Dredging of the channel is necessary to maintain the authorized depth of 55 feet over the approximately

five mile entrance channel to allow safe passage of large commercial navigation craft to upriver ports. The dredging has traditionally been, and is expected to continue to be, accomplished by hopper dredges.

Expansion of Sites A and B would approximately double the area of each existing site by moving the offshore boundary approximately 2000 feet to the West. This expanded portion of each disposal area has not directly received discharges of dredged material, although sediments placed within the boundaries of the existing sites have moved into this expanded area as a result of down slope movement and currents. Accordingly, these expanded portions of site A and B have been influenced by dredged material disposal. Site F would be expanded significantly over its existing size, from 1800 feet by 1800 feet to 10,000 feet by 10,000 feet. This expanded portion also has not received direct discharges of dredged material in the past, however, like the expanded areas of sites A and B, this area too has been influenced by the redistribution of sediments discharged at the existing designated site.

The majority of material discharged at the ODMDS sites has come from the MCR segment of the federal navigation project. New construction material from the Tongue Point project, a section 107 and permit action, was discharged at site F. Any maintenance dredged material from this project would also have gone to site F. Although no maintenance material from the Columbia and Lower Willamette Rivers navigation project has been disposed of at any of the ODMDS sites, draft plans developed during phase 2 of the Corps' Long-Term Management Strategy (LTMS) predicted that greater reliance on ocean dumping of estuary material would be necessary. During this interim period, only maintenance material from the Columbia River project (principally the MCR channel) may be discharged at any of the expanded ODMDS sites or site E.

In the past, disposal management has allowed discharge of material to occur anywhere within the site boundaries. Over the years, hopper dredge design and navigational positioning accuracy have improved to the point where the dredges are essentially pin-point dumping rather than dispersing the material. Given these changes in technology, plus an improved understanding of sediment resuspension and dispersion patterns, the Corps and EPA have concluded that disposal practices must be changes as well as site sized reevaluated. Accordingly, dredgers will be required to more broadly disperse the sediment. This change will minimize the thickness of deposition on the bottom, although it will necessarily increase the area of deposition. This practice will be most applicable to disposal events at sites A, B, and E. While this same practice normally will be employed at site F also, because of its greater size, some experimentation with point dumping may occur during the interim period. Additionally, discharge locations will be rotated throughout site F. For example, one year's dredging may be disposed in the northwestern quadrant and the following year's dredging discharged intro the southeastern quadrant. Such rotation will occur at the other sites as practical.

The consequences of the proposed expansions are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography, and distance from coast.* 40 CFR 228.6(a)(1). Expansion of Sites A and B would approximately double the area of each existing site by moving the offshore boundary approximately 2000 feet to the West. Site F would be expanded over thirty times its existing size, from 1800 feet by 1800 feet to 10,000 feet by 10,000 feet. Expansion of the sites and altering disposal paractices to promote dispersion should prevent additional mounding.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult and juvenile phases.* 40 CFR 228.6(a)(2). Unchanged from original designation.

3. *Location in relation to beaches and other amenity areas.* 40 CFR 228.6(a)(3). Unchanged from original designation.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* 40 CFR 228.6(a)(4). The majority of material (average annual of 5 million cubic yards) discharged at the existing ODMDS sites has come from the MCR channel. Material from other reaches of the lower Columbia River channel have infrequently been disposed in the ocean. Less than one million cubic yards of new construction material from the Tongue Point project, a Corps Continuing Authorities project and section 103 permit action, was discharged at site F. Any maintenance dredged material from this project would have required section 103 permitting and also would have gone to site F. Although no maintenance material from the Columbia and Willamette Rivers navigation project has been disposed of at any of the ODMDS sites, draft plans developed during phase 2 of the Corps' Long-Term Management Strategy (LTMS) predicted that greater reliance on ocean dumping of estuary material would be necessary. During the five year interim period, only maintenance material from the Columbia River project (and primarily from the MCR channel) will be disposed at any of the expanded ODMDS sites or site E.

In the past, disposal management has allowed discharge of material to occur anywhere within the site boundaries. Over the years, hopper dredge design and navigational positioning accuracy have improved to the point where the dredges are essentially pin-point dumping rather than dispersing the material. Given these changes in technology, plus an improved understanding of sediment resuspension and dispersion patterns, the Corps and EPA have concluded that disposal practices must change as well as site size. Accordingly, dredgers will be required to more broadly disperse the sediment. This change will minimize the thickness of deposition on the bottom, although it will necessarily increase the area of deposition. This practice will be most applicable to disposal events at sites A, B, and E. While this same practice normally will be employed at site F also, because of its greater size, some experimentation with point dumping may occur during the interim period. Additionally, discharge locations will be rotated throughout the sites. For example, one year's dredging may be disposed in the northwestern quadrant and the following year's dredging discharged into the southeastern quadrant.

5. *Feasibility of surveillance and monitoring.* 40 CFR 228.6(a)(5). Unchanged from original designation. Level of monitoring activity is expected to increase as part of planned studies to develop a long-term solution.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction, and velocity.* 40 CFR 228.6(a)(6). Unchanged from original designation, although dispersion of placed sediments is less than anticipated.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* 40 CFR 228.6(a)(7). The four ODMDS have been used continuously since designation. Monitoring has indicated no significant adverse effects on ocean resources. As previously stated, it was anticipated that large percentages of

discharged sediments would remain within the sites. However, erosion and redistribution were expected to prevent the development of mounds. Mounds are developing at sites A, B, and F. While the expanded portions of these sites have not directly received dredged material disposal, all of the expanded areas have been influenced by the redistribution of dredged material discharged at the designated sites.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean.* 40 CFR 228.6(a)(8). Development of mounds has been noted and comments of concern have been received from commercial shippers, crabbers, and the U.S. Coast Guard. No other conflicts have been noted.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment of baseline surveys.* 40 CFR 228.6(a)(9). Essentially unchanged from the original designation. Additional baseline information will be gathered as part of EPA/Corps investigations.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* 40 CFR 228.6(a)10). Unchanged from the original designation.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.* 40 CFR 228.6(a)(11). Unchanged from the original designation.

E. Proposed Action

The EPA and Corps conclude that expansion of the three EPA-designated ODMDS sites (sites A, B, and F), restriction of site use to suitable maintenance material from the Columbia River federal project (includes also site E), and adjustment of site management as an interim response while a long-term solution is sought is appropriate and necessary. These actions are compatible with the general criteria and specific factors.

These expansions and site use restrictions are being published as proposed rulemaking. Management of these sites has been delegated to the Regional Administrator of EPA Region 10.

It should be emphasized that, even if a designated ODMDS exists, the designation does not constitute or imply EPA's approval of actual disposal of material at sea. Before ocean dumping of dredged material may commence, the Corps of Engineers must evaluate the action applying EPA's ocean dumping criteria. EPA makes an independent evaluation and has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since (1) small entities have not used the ODMDSs in the past, and (2) the expansions will only have the effect of continuing to provide a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy for $100 million or more or cause any other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water Pollution control.

Dated: September 3, 1992.

Gerald A. Emison,

Acting Regional Administrator for Region 10.

In consideration of the foregoing, subchapter H of chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. sections 1412 and 1418.

2. Section 228.12 is amended by revising paragraphs (b)(15), (16), (17), and (18) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(b) * * *

(15) Mouth of Columbia River Dredged Material Site A— Region X. Location: 46°13'02" N, 124°06'21" W; 46°12'36" N, 124°05'39" W, 46°11'52" N, 124°06'36" W, 46°12'18" N, 124°07'18" W.

Size: 0.86 square miles (2.23 square kilometers).

Depth: 70 feet (21.3 m).

Primary Use: Dredged material.

Period of Use: Not to exceed five years from date of publication of final rule.

Restrictions: Disposal shall be limited to suitable dredged material from the Columbia River federal navigation project. During this time the Corps and EPA will conduct studies and investigations with the intent of developing a long-term dredged material management plan for the vicinity.

(16) Mouth of Columbia River Dredged Material Site B—Region X. Location: 46°14'45" N, 124°10'44" W, 46°13'52" N, 124°10'05" W; 46°13'34" N, 124°10'55" W, 46°14'26" N, 124°11'35" W.

Size: 0.86 square miles (2.23 square kilometers).

Depth: 125 feet (28.1 m).

Primary Use: Dredged material.

Period of Use: Not to exceed five years from date of publication of final rule.

Restrictions: Disposal shall be limited to suitable dredged material from the Columbia River federal navigation project. During this time the Corps and EPA will conduct studies and investigations with the intent of developing a long-term dredged material management plan for the vicinity.

(17) Mouth of Columbia River Dredged Material Site E—Region X. Location: 46°15'42" N, 124°05'26" W, 46°15'37" N, 124°05'16" W; 46°15'10" N, 124°05'58" W, 46°15'17" N, 124°06'08" W.

Size: 0.86 square miles (2.23 square kilometers).

Depth: 125 feet (38.1 m).

Primary Use: Dredged material.

Period of Use: Not to exceed five years from date of publication of final rule.

Restrictions: Disposal shall be limited to suitable dredged material from the Columbia River federal navigation project. During this time the Corps and EPA will conduct studies and investigations with the intent of developing a long-term dredged material management plan for the vicinity.

(18) Mouth of Columbia River Dredged Material Site F—Region X. Location: 46°13'09" N, 124°09'07" W, 46°12'00" N, 124°07'24" W, 46°10'49" N, 124°09'03" W, 46°11'58" N, 124°10'45" W.

Size: 3.59 square miles (9.29 square kilometers).

Depth: 125 feet (38.1 m).

Primary Use: Dredged material.

Period of Use: Not to exceed five years from date of publication of final rule.

Restrictions: Disposal shall be limited to suitable dredged material from the Columbia River federal navigation project. During this time the Corps and EPA will conduct studies and investigations with the intent of developing a long-term dredged material management plan for the vicinity.

* * * * *

[FR Doc. 92-22519 Field 9-18-92; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 88-031a]

RIN 2115-AE25

Documentation of Vessels; Controlling Interest

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is publishing this advance notice of proposed rulemaking to solicit information concerning implementation of the ownership grandfather or savings provision of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. The Coast Guard's current rules for the citizenship savings provision, published at 46 CFR 67.03-15, have been the subject of litigation: *Southeast Shipyard Assn.* v. *United States*, No. 90-1142 (D.D.C.). On April 30, 1991, the District Court decided that the Coast Guard's interpretation of the citizenship savings provision of the Act was incorrect. The court did not provide the Coast Guard with a new interpretation, but rather directed the Coast Guard to develop a new interpretation. Although the decision of the District Court is being appealed, the Coast Guard is seeking additional information for use in developing a new interpretation.

DATES: Comments must be received on or before December 21, 1992.

ADDRESSES: Comments must be in writing and may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406)(CGD 88-031a), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments, the telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don M. Wrye, Staff Attorney, Vessel Documentation and Tonnage Survey Branch, Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security and Environmental Protection. (202) 267-1492.

Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 88-031a) and the specific section of the advance notice to which each comment applies, and give a reason for each comment or suggestion. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of their comment should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during this period and may develop a notice of proposed rulemaking in response to those comments. Direct responses to individual comments concerning this advance notice of proposed rulemaking will not be made. All significant comments will be addressed in any further rulemaking initiated pursuant to this advance notice.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Mr. Thomas L. Willis, Project Manager, and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Background and Purpose

Documentation of vessels under federal law is a type of national registration which, among other things, serves to establish a vessel's eligibility to engage in a specified trade. This is done through an endorsement on the vessel's Certificate of Documentation. The Coast Guard is the agency which (a) accepts applications for documentation of vessels; (b) determines whether a vessel which is the subject of an application is eligible for documentation generally and eligible for the endorsement or endorsements requested; and (c) issues Certificates of Documentation for eligible vessels.

Eligibility requirements for documentation are set out at 46 U.S.C. 12102, as amended. One of the eligibility requirements for documentation is United States citizenship. In the case of corporations, partnerships, and associations, citizenship requirements include provisions which require that American citizens exercise control over the entity. The earliest of these American control provisions applied to corporations, partnerships, and associations seeking to document vessels for the coastwise trade.

It was not until 1988, however, that a controlling interest test applicable to corporations or partnerships seeking to document vessels for employment in the U.S. fisheries was enacted. That law, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239, 101 Stat. 1778 (1988)) (the "Act") was signed by the President on January 11, 1988. Among other things, the act amended 46 U.S.C. 12102 by imposing a controlling interest test on vessels owned by corporations. Although that change was retroactive to July 28, 1987, the Act included a grandfather or savings provision exempting vessels already operating, or under contract for purchase, as fishing industry vessels before that date.

To implement the American control provisions of the Act, the Coast Guard published a notice of proposed rulemaking (NPRM) on October 20, 1988 (53 FR 41221). That NPRM did not address the grandfather or savings clause. In response to comments, however, the Coast Guard published a supplemental notice of proposed rulemaking which included language to implement the Coast Guard's understanding of the savings clause. The Coast Guard's final rule implementing the grandfather or savings provision regarding citizenship requirements for fishing industry vessels, based upon the plain language of the statute, was

published on December 12, 1990 (55 FR 51244) at section 67.03–15.

In light of the decision of the District Court in *Southeast Shipyard* v. *U.S.*, the Coast Guard is drafting regulations to implement the grandfather or savings provision regarding citizenship requirements for fishing industry vessels. This advance notice of proposed rulemaking solicits information that will assist the Coast Guard in appropriately implementing both the statute and the order of the District Court.

Regulation Under Consideration

The Coast Guard is currently seeking comments to guide it in making appropriate amendments to 46 CFR 67.03–15, which currently reads as follows:

§ 67.03–15 Citizenship savings provision for fishing vessels.

A corporation that meets the requirements of paragraph (d)(1) of § 67.03–9 of this subpart but does not meet the requirements of paragraph (d)(2) of that section, or a partnership that meets the requirements of paragraph (a)(1) of § 67.03–5 of this subpart but does not meet the requirements of paragraph (a)(3) of that section, may nonetheless be eligible to obtain a fisheries endorsement for a vessel if the Secretary of Transportation, or the Secretary's delegate, determines that, prior to July 28, 1987, the vessel:

(a) Was documented under 46 U.S.C. chapter 121 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters or the Exclusive Economic Zone of the United States, as defined by 46 U.S.C. 2101(10a); or

(b) Was contracted for purchase for use as a fishing, fish processing, or fish tender vessel in the navigable waters or the Exclusive Economic Zone of the United States, as defined by 46 U.S.C. 2101(10a), if the purchase is shown by the contract or similarly reliable evidence to have been made for the purpose of using the vessel in the fisheries.

Questions

To address adequately the order of the District Court, additional information is needed. Responses to the following questions may be useful in developing a future NPRM.

1. When, if ever, does the sale of stock in a corporation owning a vessel constitute a "sale" of the vessel?

2. If the sale of stock in a corporation owning a vessel is deemed to constitute a sale of the vessel itself, how much stock must be sold or transferred? For example, must the sale of a single share of stock be treated as a vessel sale?

3. What is the responsibility of a publicly-traded corporation to monitor sales of stock if that corporation owns fishing industry vessels?

4. Should the sale of stock in an alien controlled corporation to U.S. citizens terminate the fishing privileges of those vessels if the sale does not result in a controlling interest being held by U.S. citizens?

5. Should the sale of voting stock be treated differently from the sale of non-voting stock? If so, how?

6. What consideration should be given to the economic impact on the value of the vessel if any sale or transfer results in the loss of fishery privileges?

7. What is the effect of transfers of stock that are not "sales", e.g., bequests of stock, stock ordered transferred pursuant to a divorce judgment, token gifts of stock to relatives?

8. What is the effect of transfer of an interest in a vessel upon death of a joint tenant?

9. What impact will vessel devaluation have on existing security interests or other liens on the affected vessels?

10. What constitutes a "change in operational control" sufficient in character or quantity to invalidate the savings clause?

Regulatory Evaluation

This advance notice of proposed rulemaking is not major under E.O. 12291 and is nonsignificant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). At this early stage it is anticipated, but by no means certain, that any resulting NPRM or final rule will not be major under E.O. 23391. Similarly, the Coast Guard anticipates, but cannot state with certitude that any resulting rule will not be significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979).

Collection of Information

The Coast Guard cannot yet estimate the paperwork burden which may result from any further rulemaking on this issue. However, if as a result of future rulemaking, small stock transfers are treated as changes in vessel ownership, publicly traded corporations will be tasked with significant recordkeeping and reporting responsibilities. The Coast Guard expects that comments received on this advance notice of proposed rulemaking will assist it in estimating the potential paperwork burden, as required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). If new recordkeeping requirements result from future proposed rulemaking, the Coast Guard will submit those recordkeeping requirements to the Office of Management and Budget for review.

Small Entities

Prior to commencing further rulemaking, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the Coast Guard to consider whether its proposals will have a significant impact on a number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Any regulations developed pursuant to this advance notice of proposed rulemaking may reasonable be expected to affect the following small entities: small businesses and individual U.S. citizens currently owning documented fishing industry vessels; individuals and small businesses seeking to sell or mortgage documented fishing industry vessels; small businesses seeking to document fishing industry vessels in the future; and lending institutions engaging in fishing industry vessel financing.

At the present time, the Coast Guard cannot state that any further rulemaking in this area will not have a significant economic impact on a substantial number of small entities. If you think that your business qualifies as a small entity, and that further rulemaking will have a significant economic impact on your business, please submit a comment (see "**ADDRESSES**") explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Environment

The Coast Guard has considered the environmental impact of any rulemaking which may result from this advance notice, and has concluded that under section 2.B.2 of Commandant Instruction M16475.1B, such rulemaking will be categorically excluded from further environmental documentation. Future rules will deal only with procedural regulations including reporting recordkeeping and reporting requirements to obtain or maintain privileges to document vessels for use in the U.S. fisheries. Future regulations resulting from this advance notice will be administrative in nature and will clearly have no environmental impact. When appropriate regulations are proposed, a Categorical Exclusion Determination will be available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

Federalism

This advance notice of proposed rulemaking has been analyzed in

accordance with the principles and criteria contained in Executive Order 12612. Based on the information available to it at this time, the Coast Guard has determined that this advance notice does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Dated: September 10, 1992.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-22898 Filed 9-18-92; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 92-28; FCC 92-358]

Low-Earth Orbit Satellites Above 1 GHz

AGENCY: Federal Communications Commission.

ACTION: Tentative decision with request for comments.

SUMMARY: This Tentative Decision sought comment on the Commission's decision to deny the requests for pioneer's preference filed by Constellation, Ellipsat, Loral, Motorola, and TRW. This action responded to five requests for pioneer's preference in licensing the mobile-satellite service for low-Earth orbit (MSS-LEO) satellites in the 1610-1626.5 and 2483.5-2500 MHz bands. The result of this decision, if finalized in the Report and Order, is that none of the five LEO-MSS proponents will receive a preference in the license proceeding.

DATES: Comments due December 4, 1992; Replies January 6, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 653-8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Tentative Decision in ET Docket No. 92-28, which was adopted on August 5, 1992, and released on September 4, 1992. The complete text of this Tentative Decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room, 230), 1919 M Street NW., Washington, DC. The complete text of this Tentative Decision also may be purchased from the Commission's duplication contractor, Downtown Copy Center, at (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Tentative Decision

1. The Commission found that generally the LEO mobile-satellite service is a lower-cost alternative to geostationary MSS and a new, viable means of providing global mobile voice and data services. However, based on the record, it is unclear who the pioneer is or what technology is best. Further, no applicant has succeeded in demonstrating overall technical system feasibility.

2. This proceeding is a restricted proceeding. No *ex parte* presentations are permitted until final Commission decisions regarding the preference requests are made and no longer subject to reconsideration by the Commission or review by any court. In addition, no presentation, *ex parte* or otherwise, is permitted during the Sunshine Agenda period. See *generally* 47 CFR 1.1202. 1.1203, and 1.1208.

3. Pursuant to applicable procedures set forth at 47 CFR 1.415 and 1.419, of the Commission's rules, interested parties may file comments on or before December 4, 1992 and reply comments on or before January 6, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed.

Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Frequency allocations, General rules and regulations, Radio.

47 CFR Part 25

Radio, Satellite communications.

Federal Communications Commission.

William Caton,

Acting Secretary.

[FR Doc. 92-22744 Filed 9-18-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 2

[ET Docket No. 92-28; FCC 92-358]

Low-Earth Orbit Satellites Above 1 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this action the Commission proposed to amend part 2 of its Rules to allocate spectrum in the 1610-1626.5 and 2483.5-2500 MHz bands for a mobile-satellite service, including non-geostationary satellites. The Commission sought comment on allocating these bands for mobile-satellite services that could be used to provide voice, data messaging, and position determination services.

DATES: Comments due December 4, 1992; Replies January 6, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 653-8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Communication's Notice of Proposed Rule Making adopted on August 5, 1992 and released on September 4, 1992. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this NPRM also may be purchased from the Commission's duplication contractor, Downtown Copy Center, at (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

Summary of Proposed Rule

1. This notice, proposed to allocate the 1610-1626.5 and 2483.5-2500 MHz bands for the mobile-satellite service (MSS), including the use of non-geostationary satellite systems such as low-Earth orbit (LEO) satellites. The Commission also proposed related allocations for the inter-satellite service above 20 GHz to accommodate crosslinks that may be required by such MSS systems. Such non-geostationary satellite systems are expected to offer a wide-range of new and low-cost services such as voice, facsimile and data messaging, fleet

surveillance and control, with a potentially worldwide scope of service.

2. These proposed allocations are consistent with decisions made at the 1992 World Administrative Radio Conference (WARC–92) that allocated these bands internationally. This action also responds to petitions for rule making filed by Constellation Communications, Inc. (Constellation), Ellipsat Corporation (Ellipsat), Loral Qualcomm Satellite Services, Inc. (Loral), Motorola Satellite Communications, Inc. (Motorola), TRW, Inc. (TRW), American Mobile Satellite Corporation (AMSC) and CELSAT, Inc. (CELSAT).

3. Based upon the need demonstrated by the record for voice, data transmission, and RDSS position determination services, we tentatively concluded that there is a viable market for this service and that providing for these needs would be in the public interest. We expect that it would make available to the American public additional communication services at significantly less cost than currently available.

4. However, we did not propose the 1515–1525 MHz band, as proposed by AMSC, because the AMSC proposal is incompatible with existing users in this band and because it does not conform to the WARC–92 allocation. Further, we did not propose a hybrid geostationary satellite and terrestrial cellular communications satellite system as suggested by CELSAT. Such an allocation would be inconsistent with the international allocation decisions made at WARC-92 for the United States because ground links were not provided in the 1610–1626.5 MHz bands.

5. This is a non-restricted notice and comment rule making proceeding, and as such members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period, provided, they are disclosed as provided in Commission rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

6. This action is taken pursuant to sections 4(i), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(c), 303(f), 303(g), and 303(r).

7. Pursuant to applicable procedures set forth at 47 CFR 1.415 and 1.419, of the Commission's rules, interested parties may file comments on or before December 4, 1992 and reply comments on or before January 6, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed.

Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Frequency allocations, General rules and regulations, Radio.

47 CFR Part 25

Radio, Satellite communications.

Proposed Rule Change

Part 2 of chapter I of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

1. The authority citation in part 2 continues to read:

Authority: Secs. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, and 307, unless otherwise noted.

§ 2.106 Table of Frequency Allocations.

2. Section 2.106, the Talbe of Frequency Allocations is amended as follows:

a. In the band 1610–1626.5 MHz revise columns (1), (2), (3), (4), and (5) with the new charts that now depict three bands: 1610–1610.6, 1610.6–1613.8, and 1613.8–1626.5 Mhz.

b. In the band 2483.5–2500 MHz revise columns (1), (2), (3), (4), and (5) with the new chart.

c. Add a reference to a primary allocation for INTER-SATELLITE SERVICE in column (2) of the 25.25.5 GHz, 25.5–27 GHz, and 32–32.3; in columns (1) and (2) OF THE 27–27.5 GHz band; and in columns (1), (2), and (3) of and 24.45–24.65 GHz and 24.65–24.75 GHz bands.

d. In the international footnotes at the end of § 2.106 make the following modifications: remove footnotes 731A, 731B, 731C, 731D, 753E, 877, and 878; revise footnotes 733E, and 734 and add new footnotes 731X, 731Y, 753X, 881A, 881B, and 882X.

§ 2.106 Table of Frequency Allocations

* * * * *

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-government allocation MHz	Rule part (s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
1610–1610.6 Aeronautical radionavigation. Mobile-Satellite (Earth-to-space).	1610–1610.6 Aeronautical radionavigation. Radiodetermination-Satellite (Earth-to-space). 733A. Mobile-Satellite (Earth-to-space)..	1610–1610.6 Aeronautical radionavigation. Mobile-Satellite (Earth-to-space).. Radiodetermination-Satellite (Earth-to-space). 733A.	1610–1610.6 Aeronautical radionavigation.	1610–1610.6 Aeronautical radionavigation. Radiodetermination-Satellite (Earth-to-space). 733A. Mobile-Satellite (Earth-to-space).	Aviation (87). Satellite communication (25)	
722, 727, 730, 731, 731X, 732, 733, 733A, 733B, 733E, 733F.	722, 731X, 732, 733, 733C, 733D, 733E.	722, 727, 730, 731X, 732, 733, 733B, 733E.	722, 732, 733, US208, US260.	722, 731X, 732, 733, 733E, US208, US260.		
*	*	*	*	*	*	*

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-government allocation MHz	Rule part (s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1610.6–1613.8 Aeronautical radionavigation. Mobile-Satellite (Earth-to-space). Radio astronomy	1610.6–1613.8 Aeronautical radionavigation. Radiodetermination-Satellite (Earth-to-space). 733A. Mobile-Satellite (Earth-to-space). Radio astronomy	1610.6–1613.8 Aeronautical radionavigation. Mobile-Satellite (Earth-to-space). Radio astronomy radiodetermination-satellite (Earth-to-space). 733A.	1610.6–1613.8 Aeronautical radionavigation. Radio astronomy	1610.6–1613.8 Aeronautical radionavigation. Radiodetermination-Satellite (Earth-to-space). Mobile-Satellite (Earth-to-space). Radio astronomy.		
722, 727, 730, 731, 731X, 732, 733, 733A, 733B, 733E, 733F, 734.	722, 731X, 732, 733, 733C, 733D, 733E, 734.	722, 727, 730, 731X, 732, 733, 733B, 733E, 734.	722, 732, 733, US208, US260.	722, 731X, 732, 733, 733E, 734, US208, US260		
*	*	*	*	*	*	*
1613.8–1626.5 Aeronautical radionavigation. Mobile-satellite (Earth-to-space). Mobile-satellite (space-to-Earth).	1613.8–1626.5 Aeronautical radionavigation. Radiodetermination satellite (Earth-to-space). 733A. Mobile-satellite (Earth-to-space). Mobile-satellite (space-to-Earth).	1613.8–1626.5 Aeronautical radionavigation. Mobile-satellite (Earth-to-space). Radiodetermination-satellite (Earth-to-space). Mobile-satellite (space-to-Earth).	1613.8–1626.5 Aeronautical radionavigation.	1613.8–1626.5 Aeronautical radionavigation. Radiodetermination-satellite (Earth-to-space). Mobile-satellite (Earth-to-space). Mobile-satellite (space-to-Earth).		
722, 728, 730, 731, 731X, 731Y, 732, 733, 733A, 733B, 733E, 733F.	722, 731X, 731Y, 732, 733, 733C, 733D, 733E.	722, 727, 730, 731X, 731Y, 732, 733, 733B, 733E.	722, 732, 733, US208, US260.	722, 731X, 731Y, 732, 733, 733E, US208, US260.		
*	*	*	*	*	*	*
2483.5–2500 Fixed Mobile Mobile-satellite (space-to-Earth). Radiolocation	2483.5–2500 Fixed Mobile Radiodetermination-satellite (space-to-Earth). 753A. Radiolocation Mobile-satellite (space-to-Earth).	2483.5–2500 Fixed Mobile Radiolocation Mobile-satellite (space-to-Earth) Radiodetermination-satellite (space-to-Earth). 753A	2483.5–2500	2483.5–2500 Radiodetermination-satellite (space-to-Earth). Mobile-satellite (space-to-Earth).	Satellite communication (25)	
733F, 752, 753, 753A, 753B, 753C, 753X.	752, 753D, 753X	752, 753C, 753X	752, US41	752, 753X, US41, NG147.		
*	*	*	*	*	*	*
24.25–24.45			24.25–24.45			
	Radionavigation		Radionavigation		Aviation (87)	
24.45–24.65 Fixed Inter-satellite	24.45–24.65 Radionavigation Inter-satellite	24.45–24.65 Radionavigation Fixed Inter-satellite Mobile	24.45–24.65 Inter-satellite.		Satellite (25)	
	882X	882X	882X			
24.65–24.75 Fixed Inter-satellite	24.65–24.75 Inter-satellite Radiolocation-Satellite. (Earth-to-space)	24.65–24.75 Fixed Inter-satellite Mobile 882X, 882Y	24.65–24.75 Inter-satellite. Radiolocation-Satellite. (Earth-to-space)		Satellite (25)	
*	*	*	*	*	*	*
24.75–25.25 Fixed	24.75–25.25 Fixed-Satellite (Earth-to-space). 882Z.	24.75–25.25 Fixed Fixed-satellite (Earth-to-space) Mobile 882Y	24.75–25.25 Fixed-satellite. (Earth-to-space). 882Z.		Satellite (25)	

25.25–25.5	Fixed Mobile Inter-satellite. 881A Standard. Frequency and Time Signal-Satellite (Earth-to-space).	25.25–25.5	Satellite (25) Fixed. Mobile Inter-satellite. 881A Standard. Frequency and Time Signal-Satellite (Earth-to-space).
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25.5–27	Fixed Mobile Inter-satellite. 881A Earth exploration-satellite (space-to-Earth). Standard frequency and time signal-satellite (Earth-to-space).	25.5–27	Satellite (25) Fixed. Mobile. Inter-satellite. 881A. Earth exploration-satellite (space-to-Earth). Standard freqency and time signal-satellite (Earth-to-space).
27.27.5	Fixed Mobile Inter-satellite.	27–27.5	Satellite (25) Fixed. Fixed-satellite (Earth-to-space). Mobile. Inter-satellite. 881A 881B.

881A

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INTERNATIONAL FOOTNOTES

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731X—The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service (Earth-to-space) is subject to the application of the coordination and notification procedures set forth in Resolution COM5/8. A mobile earth station operating in either of the services in this band shall not produce an e.i.r.p. density in excess of −15 dBW/4kHz in the part of the band used by systems operating in accordance with the provisions of No. 732, unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, a value of −3 dBW/4 kHz is applicable. Stations of mobile-satellite service shall not cause harmful interference to, or claim protection from, stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of No. 732 and stations in the fixed service operating in accordance with the provisions of No. 730.

731Y—The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to the application of the coordination and notification procedures set forth in Resolution COM5/8.

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733E—Modified—Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 2904 applies).

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734—Modified—In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service in the band 1610.6–1613.8 MHz from harmful interference. Emissions from space or air-borne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

• • • • • • •

753X—The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the application of the coordination and notification procedures set forth in Resolution COM5/8. Coordination of space stations of the mobile-satellite and radiodetermination-satellite services with respect to terrestrial services is required only if the power flux-density produced at the Earth's surface exceeds the limits in No. 2566. In respect of assignments operating in this band, the provisions of Section II, paragraph 2.2 of Resolution COM5/8 shall also be applied to geostationary transmitting space stations with respect to terrestrial stations.

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881A—Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration applications and also transmissions of data originating from industrial and medical activities in space.

881B—Space services using non-geostationary satellites operating in the inter-satellite service in the band 27–27.5 GHz are exempt form the provisions of No 2613.

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882X—The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

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Federal Communications Commission.

William Caton,

Acting Secretary.

[FR Doc. 92–22746 Filed 9–18–92; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Grand Island Advisory Commission; Meeting

AGENCY: Forest Service, USDA.

ACTION: Grand Island Advisory Commission meeting.

SUMMARY: The Grand Island Advisory Commission will meet on October 2, 1992 at 8 a.m. at the Comfort Inn on M–28 East in Munising, Michigan. An agenda for the half day meeting will consist of a review of the DEIS Summary; Public Involvement Plan and relationship of the Forest Service/Commission.

Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Art Easterbrook, Staff Officer, Hiawatha National Forest, 2727 N. Lincoln Road, Escanaba, MI 49829, (906) 786–4062.

Dated: September 15, 1992.

William F. Spinner,

Forest Supervisor.

[FR Doc. 92–22750 Filed 9–18–92; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Membership of the USCCR Performance Review Board

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of membership of the USCCR Performance Review Board.

SUMMARY: This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 1992 rating year.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia Tyler, Personnel Division, U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW., Washington, DC 20425 (202) 376–8364.

Members

Richard L. Osbourn, Chairman of PRB, Director of Personnel, Small Business Administration

Godfrey D. Dudley, Director, Field Management Programs-East, Equal Employment Opportunity Commission

Myra Shiplett, Deputy Director of Human Resources, Administrative Office of the U.S. Courts

Carlos Esparza, Assistant Director for Financial Control and Management, Retirement and Insurance Group, Office of Personnel Management

Dated: September 16, 1992.

Emma Gonzalez-Joy,

Solicitor.

[FR Doc. 92–22797 Filed 9–18–92; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee (CAC) of the American Economic Association (AEA), the CAC of the American Marketing Association (AMA), the CAC of the American Statistical Association (ASA), and the CAC on Population Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meeting of the CAC of the AEA, CAC of the AMA, CAC of the ASA, and CAC on Population Statistics. The joint meeting will convene on October 22–23, 1992 at the Bureau of the Census, Room 1630, Federal Building 3, Suitland, Maryland.

The CAC of the AEA is composed of nine members appointed by the president of the AEA. It advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning economic surveys and censuses; reviews major aspects of the Census Bureau's programs; and advises on the role of analysis within the Census Bureau.

The CAC of the AMA is composed of nine members appointed by the chairman of the board of the AMA. It advises the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The CAC of the ASA is composed of 12 members appointed by the president of the ASA. It advises the Director, Bureau of the Census, on the Census Bureau's programs as a whole and on their various parts; considers priority issues in the planning of censuses and surveys; examines guiding principles; advises on questions of policy and procedures; and responds to Census Bureau requests for opinions concerning its operations.

The CAC on Population Statistics is composed of four members appointed by the Secretary of Commerce and five members appointed by the president of the Population Association of America from the membership of that Association. The CAC on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The agenda for the October 22 combined meeting that will begin at 9 a.m. and end at 10:40 a.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) economic and agriculture censuses update; and (3) "A Changing United States" slide presentation.

The agendas for the four committees in their separate and jointly held meetings that will begin at 11 a.m. and adjourn at 5:15 p.m. on October 22 are as follows:

The CAC of the AEA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the AEA, (2) Center for Economic Studies annual report, (3) response rate improvement initiatives by Business Division (joint with the CAC of the AMA), (4) proposals for revisions to the R & D survey (joint with the CAC of the AMA), and (5) potential joint projects between the economic and demographic areas (joint with the CAC

of the AMA and the CAC on Population Statistics).

The CAC of the AMA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the AMA, (2) conversational interviewing (joint with the CAC of the ASA), (3) response rate improvement initiatives by Business Division (joint with the CAC of the AEA), (4) proposals for revisions to the R & D survey (joint with the CAC of the AEA), and (4) potential joint projects between the economic and demographic areas (joint with the CAC of the AEA and the CAC on Population Statistics).

The CAC of the ASA: (1) Census Bureau responses to recommendations and activities of special interest to the CAC of the ASA, (2) conversational interviewing (joint with the CAC of the AMA), (3) coverage in household surveys (joint with the CAC on Population Statistics), (4) Survey of Income and Program Participation redesign issues (joint with the CAC on Population Statistics), and (5) respondent initiated reporting activities.

The CAC on Population Statistics: (1) Census Bureau responses to recommendations and activities of special interest to the CAC on Population Statistics, (2) immigration and emigration: estimates and projections, (3) coverage in household surveys (joint with the CAC of the ASA), (4) Survey of Income and Program Participation redesign issues (joint with the CAC of the ASA), and (5) potential joint projects between the economic and demographic areas (joint with the CACs of the AEA and the AMA).

The agendas for the October 23 meeting that will begin at 9 a.m. and adjourn at 1 p.m. are:

The CAC of the AEA: (1) Exporter data base (joint with the CAC of the AMA), (2) Economic Statistical Methods Division and research agenda, (3) development and discussion of recommendations, and (4) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and c) comments by outside observers.

The CAC of the AMA: (1) Exporter data base (joint with the CAC of the AEA), (2) overall public relations plans for the Census Bureau, (3) development and discussion of recommendations, and (4) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

The CAC of the ASA: (1) 2000 research and development (joint with the CAC on Population Statistics, (2) development and discussion of recommendations, and (3) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

The CAC on Population Statistics: (1) 2000 research and development (joint with the CAC of the ASA), (2) development and discussion of recommendations, and (3) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for next meeting, and (c) comments by outside observers.

All meetings are open to the public, and a brief period is set aside on October 23 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least 3 days before the meeting.

Persons wishing additional information regarding these meetings or who wish to submit written statements may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel, room 2419, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone: (301) 763-5410.

Dated: September 15, 1992.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 92-22703 Filed 9-18-92; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Davis Heniford From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On May 21, 1992, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Davis Heniford (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to fill 2.5 acres of wetlands for the purpose of constructing a shopping center in Loris, South Carolina. In conjunction with the Federal permit application, the Appellant submitted to the Corps for review by the South Carolina Coastal Council (State), the State of South Carolina's coastal management agency, under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A), a certification that the proposed activity is consistent with the State's federally-approved Coastal Management Program.

On August 21, 1990, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed pier is not in accordance with the State's Coastal Management Program policies that discourage filling of freshwater wetlands for commercial development when reasonable alternative uses are available. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the State's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I and did not plead Ground II.

Upon consideration of the information submitted by the Appellant, the State and interested Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121 (b) and (d): The proposed project will cause adverse effects on the resources of the coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. Additionally, the Appellant failed to controvert the State's determination of the existence of a reasonable alternative to the proposed project. Accordingly, the proposed project is not consistent with the objectives or purposes of the CZMA. Because the Appellant's proposed project failed to satisfy all of the requirements of Ground I, the Secretary did not override the State's objection to the Appellant's consistency certification, and consequently, the proposed project may not be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Brett Joseph, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S.

Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance

Dated: September 15, 1992.

Thomas A. Campbell,

General Counsel.

[FR Doc. 92–22770 Filed 9–18–92; 8:45 am]

BILLING CODE 3510–08–M

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA.

TIME AND DATE: Meeting will convene at 8:45 a.m., September 29, and adjourn at 3:30 p.m., September 30, 1992.

PLACE: The Sheraton Premiere at Tysons Corner, 8611 Leesburg Pike, Vienna, Virginia.

STATUS: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, and environmental, state, consumer, academic, and other national interests.

MATTERS TO BE CONSIDERED: September 29, 1992, 8:45 a.m.–5:30 p.m., (1) Magnuson Act, (2) marine recreational fisheries, and (3) protected resources.

September 30, 1992, 9 a.m.–3:30 p.m., (1) international cooperation, (2) by-catch program planning, and (3) budget and program planning.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Policy and Coordination Office, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Telephone: (301) 713–2252.

Dated: September 15, 1992.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service, NOAA.

[FR Doc. 92–22717 Filed 9–18–92; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Myanmar; Correction

September 15, 1992.

On page 31357, volume 57, published in the **Federal Register** on July 15, 1992, make the following changes:

1. First column, under the heading "Supplementary Information," second paragraph, nineth line: change "began on June 30, 1992 and extends through June 29, 1993" to "began on July 1, 1992 and extends through June 30, 1993."

2. Third column, first paragraph, 12th line in the letter to the Commissioner of Customs: change "beginning on June 30, 1992 and extending through June 29, 1993" to "beginning on July 1, 1992 and extending through June 30, 1993."

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–22828 Filed 9–18–92; 8:45 am]

BILLING CODE 3510–DR–F

Denial of Participation in the Special Access and Special Regime Programs

September 15, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: November 1, 1992.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that Fashion Enterprises is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on November 1, 1992, to deny Fashion Enterprises the right to participate in the Special Access and Special Regime Programs, for a period of three years, from November 1, 1992 through October 31, 1995.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and 54 FR 50425, published on December 6, 1989.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 15, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that Fashion Enterprises is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on November 1, 1992, you are directed to prohibit Fashion Enterprises from further participation in the Special Access and Special Regime Programs, for a period of three years, from November 1, 1992 through October 31, 1995. Goods accompanied by Form ITA–370P which are presented to U.S. Customs for entry under the Special Access and Special Regime Programs will no longer be accepted. In addition, for the period November 1, 1992 through October 31, 1995, you are directed not to sign ITA–370P forms for export of U.S.-formed and cut fabric for Fashion Enterprises.

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–22829 Filed 9–18–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement (DFARS), part 227, Patents, Data and Copyrights; OMB Control Number 0704–0240.

Type of Request: Reinstatement.

Average Burden Hours/Minutes Per Response: 80 hours.

Responses Per Respondent: 1.

Number of Respondents: 16,560.

Annual Responses: 16,560.

Annual Burden Hours (Including Recordkeeping): 2,307,240.

Needs and Uses: This requirement concerns information collecting and recordkeeping related to technical data, software, copyrights, and contracts.

Affected Public: Businesses or other for-profit, Non-profit institutions, and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: September 15, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–22689 Filed 9–18–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: The 1993 Survey of High School Youth.

Type of Request: New Collection.

Average Burden Hours/Minutes Per Response: 31.8 minutes.

Responses Per Respondent: 1.

Number of Respondents: 10,000.

Annual Burden Hours: 5,300.

Annual Responses: 10,000.

Needs and Uses: The Army and Navy are facing a challenge to meet their accession goals given the current climate of limited internal resources and increased external volatility. They need up-to-date information on the opinions of youth regarding these issues and how they affect their propensity to enlist. Further, these Services require information on the goals and motivations of eligible youth to recruit efficiently.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: September 15, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–22690 Filed 9–18–92; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Defense Science Board Task Force on Submarine Service Life; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Submarine Service Life will meet in closed session on October 5 and 6, 1992, at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, The Task Force will receive classified briefings on technical factors affecting submarine lifespan.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: September 15, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–22688 Filed 9–18–92; 8:45 am]

BILLING CODE 3810–01–M

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary of Defense.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education (ACDE). It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the point of contact listed below.

DATES: October 30, 1992, 9 a.m. to 4:30 p.m. and October 31, 1992, 9 a.m. to 12 noon.

ADDRESSES: The conference room of the Oranian Hotel, Platterstrasse 2, Wiesbaden, Germany, D6200. Telephone number 49–611–525025.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Witcher, Public Affairs Officer, DoD Dependents Schools, 1225 Jefferson Davis Highway, Crystal Gateway #2, suite 1500, Arlington, Virginia 22202; telephone number: (703) 746–7846.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under title XIV, section 1411, of Public Law 95–561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b)(3)–(5), of Public Law 99–145, Department of Defense Authorization Act of 1986 (20 U.S.C., chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is cochaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Secretaries, 12 members are appointed jointly by the Secretaries. Members include representatives of educational institutions and agencies, professional employee organizations, unified military commands, school administrators, parents of DoDDS students, and one DoDDS student. The Director, DoDDS, serves as the Executive Secretary of the Council. The purpose of the Council is to

advise the Secretary of Defense and the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes discussions about the national goals for education, AMERICA 2000, high expectations for student achievement, education of handicapped dependents, communications throughout the system, increased parental involvement, an update on drawdown planning, and responses to the recommendations made by the Council during its January meeting.

Dated: September 15, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-22691 Filed 9-18-92; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Addition of a Record System

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Addition of a record system.

SUMMARY: The Office of the Secretary of Defense proposes to add a new record system to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C 552a), as amended.

DATES: The proposed action will be effective without further notice on October 21, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: The OSD Privacy Act Officer, OSD Records Management and Privacy Act Branch, Room 5C315, Pentagon,Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695-0970

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been published in the Federal Register as follows:

50 FR 22090, May 29,1985 (DoD Compilation, changes follow)
50 FR 47087, November 14, 1985
51 FR 11803, April 7, 1986
51 FR 17508, May 13, 1986
51 FR 44672, December 11, 1986
52 FR 22837, June 16, 1987
53 FR 15868, May 4, 1988
53 FR 27894, July 25, 1988
54 FR 33756, August 16, 1989
54 FR 44314, October 24, 1989
55 FR 17655, April 26, 1990
55 FR 20180, May 15, 1990
55 FR 21429, May 24, 1990
55 FR 35448, August 30, 1990
55 FR 49405, November 28, 1990
56 FR 4603, February 5, 1991
56 FR 7016, February 21, 1991
56 FR 9200, March 5, 1991
56 FR 9348, March 6, 1991
56 FR 10545, March 13, 1991
56 FR 57620, November 13, 1991
56 FR 61409, December 3, 1991

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on September 9, 1992 to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985).

Dated: September 11, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DOSIA 01

SYSTEM NAME:

OSIA Treaty Inspection Manpower Management System.

SYSTEM LOCATION:

Records in the system are located at the On-Site Inspection Agency, 300 West Service Road, Dulles International Airport, Washington, DC 20041-0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals affiliated with the On-Site Inspection Agency, either by military assignment, civilian employment, or contractual support agreement. Individuals are weapons inspectors, linguists, mission schedulers/planners, personnel assistants/specialists, portal rotation specialists, operation technicians, passport managers, clerical staff, and database management specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes individual's name, Social Security Number, date of birth, city/state/country of birth, education, marital status, gender, race, civilian or military member, rank (if military), security clearance, years of federal service, occupational category, job organization and location, and emergency locator information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 125 and Executive Order 9397.

PURPOSES:

To manage OSIA manpower resources, including security clearance processing and verification, special access certification, passport status, mission scheduling and planning, inspection team composition, inspector and transport list management, and inspector training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDINGCATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

The "Blanket Routine Uses" set forth at the beginning of the OSD's compilation of records system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Records may be retrieved by name or Social Security Number.

SAFEGUARDS:

Records are stored in a computer system with extensive intrusion safeguards.

RETENTION AND DISPOSAL:

Records are maintained for as long as the individual isassigned to OSIA. Upon departure from OSIA, records concerning that individual are removed from the active file and retained in an inactive file for ten years. Information that has been held in the inactive file for ten years is deleted.

SYSTEM MANAGER AND ADDRESS:

On-Site Inspection Agency Database Administrator, 300 West Service Road, Dulles International Airport, Washington, DC 20041-0498.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Director for Operations, On-Site Inspection Agency, 300 West Service Road, Dulles International Airport, Washington, DC 20041-0498.

The inquiry should include full name and Social SecurityNumber.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address a written request to Director for Operations, On-Site Inspection Agency, 300 West Service Road, Dulles International Airport, Washington, DC 20041-0498.

The inquiry must include full name and Social SecurityNumber.

CONTESTING RECORDS PROCEDURES:

The Office of the Secretary of Defense rules for accessing records and for contesting contents and appealing initial OSD determinations are published in OSD Administrative Instruction No. 81, "OSD Privacy Program"; 32 CFR part 286b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is provided by the individual, obtained from other personnel record sources, and from the individual's superiors and assignment personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-22687 Filed 09-18-92; 8:45 am]
BILLING CODE 3810-01-F

Department of the Army

Directorate of Personnel Property Performance

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice, Directorate of Personnel Property Performance Bond Policy.

SUMMARY: This is to announce effective October 1, 1991, the Military Traffic Management Command (MTMC) will implement the method of releasing performance bonds announced in the **Federal Register** on April 8, 1992 (FR 11941).

The Military Traffic Command's qualification standard for carriers to participate in the international movement of household goods and unaccompanied baggage shipment services includes a requirement that a carrier place a continuous performance bond on file with MTMC. The minimum amount of the bond is currently $100,000 or 2.5 percent of the carrier's gross annual revenue derived from the preceding year's Department of Defense (DOD) international shipments, whichever is more. The purpose of the performance bond requirement is to protect the DOD's interests against shipments becoming frustrated or delayed prior to delivery to the member. The bond requirement is set forth in DOD 4500.34-R, dated October 19, 1991, appendix A, paragraph I.B.11.

Recently, requests have been received from carriers to release performance bonds on file with MTMC. Therefore, MTMC intends to implement the following procedures for releasing a carrier's performance bond. Carriers wishing to have their performance bond released by MTMC must conform to the conditions and policies prescribed below.

1. Release of Performance Bond Policy—General

a. Carriers must submit a written request to Headquarters, Military Traffic Management Command (HQMTMC), Directorate of Personnel Property, Rate Acquisition Division (MTPP-CA), for the return of either performance bond type listed below. The request must provide a reason why the bond needs to be returned and be accompanied by a listing of shipments which are in the carrier's possession or control. Any shipment not delivered to the member or member's designated agent is considered to be in the carrier's possession or control. If no shipments are in the carrier's possession or control, the request must so state.

b. It is MTMC's policy performance bonds will not be released until all shipment services and final delivery to the member have been completed. This constitutes final performance by the carrier. Shipments in storage-in-transit (SIT) at destination are considered in-transit and do not meet the final delivery or complete performance standard stated above. The following policies apply for the release of bonds based on the type of bond the carrier has on file.

c. This policy applies to active carriers (DOD-approved) and inactive carriers (carriers in a nonuse status, disqualified, but retaining DOD approval; and carriers voluntarily withdrawn from the program, but who have agreed to onward movement of shipments to final destination).

2. Annual Performance Bond Release Procedures

a. *Active Carriers:*

(1) Carriers wishing return of the last Annual Performance Bond may have the bond returned to them (or their surety company, at their request) only if all shipments have been delivered to the member. Shipments in the pipeline and/or in SIT will remain subject to coverage under the bond until delivery is complete.

(2) If there are still undelivered shipments or shipments in SIT, the carrier may obtain a rider from its surety company to apply those shipments to the continuous performance bond on file with MTMC, changing the effective date of the continuous bond to the pickup date of the oldest undelivered shipment. After the rider is attached to the continuous bond, the Annual Performance Bond may be returned to the carrier (or surety company).

(3) For shipments in the pipeline or SIT, the carrier must submit a list of all shipments to include Government bill of lading number, member's name, rank, Social Security Number, pickup date of shipment, responsible destination personal property shipping office, and status.

b. *Inactive Carriers:*

(1) Paragraphs a. (1)-(3) apply.

(2) If the carrier does not have a continuous bond on file, the value of the Annual Performance Bond may be reduced to cover the costs of delivering outstanding shipments. A reduction in the bond's value must be agreed to by the carrier and surety. Based on the listing of outstanding shipments, MTMC will determine a dollar value of the new bond. In this case, a rider from the surety company must be affixed to the bond. The bond will remain a part of the carrier's file until all shipments are delivered.

3. Continuous Performance Bond Release Procedures

a. *Active Carrier (DOD-approved carriers):*

Carriers wishing return of the continuous performance bond may have the bond returned to them (or their surety company, at their request) only if all shipments have been delivered to the service members. Shipments in the pipeline and/or in SIT will remain subject to coverage under the bond until delivery is complete.

b. Inactive Carriers (DOD-approved carriers in nonuse status; disqualified, but retain DOD approval; voluntarily withdrawn from program, but agreed to onward movement of shipments to final destination):

MTMC will consider reducing the value of the bond to cover the costs of delivering outstanding shipments. A reduction in the bond's value must be agreed to by the carrier and surety. In this case, a rider from the surety company must be affixed to the bond.

For shipments in the pipeline or SIT, the carrier must submit a list of all shipments to include Government bill of lading number, member's name, rank, Social Security Number, pickup date of shipment, responsible destination personal property shipping office, and status.

The bond will remain a part of the carrier's file until all shipments are delivered.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-22726 Filed 9-8-92; 8:45 am]

BILLING CODE 3710-08-M

Defense Mapping Agency

Sale of Products

AGENCY: Defense Mapping Agency (DMA), Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The public sales of Defense Mapping Agency (DMA) nautical, aeronautical, and Flight Information Publications (FLIP) products will no longer be performed by DMA. The public sales of these products will now be handled by the National Ocean Service (NOS). The NOS is an office of the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

EFFECTIVE DATE: 1 October 1992.

FOR FURTHER INFORMATION CONTACT: Harold W. Madison, Acting Deputy Director, Programs and Distribution, DMA Combat Support Center, 6001 MacArthur Boulevard, Bethesda, MD, 20816-5001, Tel. (301) 227-3115.

SUPPLEMENTARY INFORMATION: Persons, organizations, and sales agents in the United States and foreign countries requiring the above domestic and international DMA products should contact NOS at: National Ocean Service, Distribution Branch, 6501 Lafayette Avenue, Riverdale, MD 20737-1199, tel. (301) 436-6990 (General Information), (301) 436-6993 (FLIP Information), (301) 436-8726 (Sales Agents Information).

Dated: September 15, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-22692 Filed 9-18-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.024]

Early Education Program for Children With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide Federal support for a variety of activities designed to address the special problems of infants, toddlers, and preschool aged children with disabilities, and to assist State and local entities in expanding and improving programs and services for those children and their families. Activities include demonstration, outreach, experimental, research, and training projects, and research institutes.

These priorities support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by assisting those with disabilities through improved services and better trained service providers.

Eligible Applicants: Public agencies and nonprofit private organizations may apply for an award under either of the priorities.

Note: The Department is not bound by any estimates in this notice.

Applications Available: October 5, 1992.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 309.

EARLY EDUCATION PROGRAM FOR CHILDREN WITH DISABILITIES

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Early Childhood Demonstration Project (CFDA 84.024B).	11-23-92	1-22-93	$1,000,000	$120,000-140,000	$130,000	8	Up to 60.
Outreach Projects (CFDA 84.024D)	12-11-92	2-11-93	2,000,000	120,000-140,000	130,000	15	Up to 36.

Priorities: The final priorities for Early Childhood Model Demonstration Projects and Outreach Projects were published in the **Federal Register** on April 8, 1992 at 57 FR 12080.

For Application or Information Contact: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202-2644. Telephone (202) 205-9503. Deaf and hearing impaired individuals may call (202) 205-6170 for TDD services.

Program Authority: 20 U.S.C. 1423.

Dated: September 15, 1992.

Michael E. Vader,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-22731 Filed 9-18-92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.026R]

Educational Media Research, Production, Distribution, and Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: The purposes of this program are to promote the general welfare of the deaf, hard-of-hearing, and visually impaired individuals, and the educational advancement of individuals with disabilities.

This priority supports AMERICA 2000, the President's strategy for moving the Nation toward the National Educational Goals, by assisting those with disabilities through improved services and better trained service providers.

Eligible Applicants: Profit and nonprofit public and private agencies, organizations, and institutions are eligible to apply for a grant.

Note: The Department is not bound by any estimates in this notice.

Deadline for Transmittal of Applications: 4/27/93.

Deadline for Intergovernmental Review: 6/28/93.

Applications Available: 10/30/92.

Available Funds: $375,000.

Estimated Range of Awards: $75,000-100,000.

Estimated Size of Awards: $94,000.

Estimated Number of Awards: 4.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 332, as amended on October 22, 1991 at 56 FR 54702–54703.

Priority: The final priority for Special Research, Development, and Evaluation Projects as published in the **Federal Register** on April 8, 1992 at 57 FR 12080, (Priority #3, at page 12083).

For Application or Information Contact: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2644. Telephone (202) 205–9503. Deaf and hearing impaired individuals may call (202) 205–6170.

Program Authority: 20 U.S.C. 1451, 1452.

Dated: September 15, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92–22730 Filed 9–18–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Noncompetitive Financial Assistance Award

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to the Eastern New Mexico University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to Eastern New Mexico University, Portales, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management educational initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22816 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to the New Mexico Highlands University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to New Mexico Highlands University, Las Vegas, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management education initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22815 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to the New Mexico State University.

SUMMARY: Based upon a determination pursuant to 10 CFR § 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to New Mexico State University, Las Cruces, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to

budget limitations. The public purpose to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management educational initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22817 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to the University of New Mexico.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to the University of New Mexico, Albuquerque, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management educational initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22819 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Chicago Support Office; Award Based on Acceptance of an Unsolicited Application; National Industrial Competitiveness Through Environment, Energy and Economics (NICE ³)

AGENCY: Department of Energy.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The Department of Energy (DOE), Chicago Field Office, through the Chicago Support Office, announces that, pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), DOE intends to award a grant to the Ohio Department of Development for the promotion of the National Industrial Competitiveness through Environment, Energy and Economics (NICE ³). The anticipated overall objective is to improve energy efficiency and reduce environmental emissions of industry.

SUPPLEMENTARY INFORMATION: The National Industrial Competitiveness through Environment, Energy and Economics (NICE ³) project is a joint effort program between DOE and the Environmental Protection Agency (EPA) to award matching grants to large industrial States where industry is both energy-intensive and generates substantial amounts of waste.

Three Ohio industries were selected by a review committee comprised of representatives from DOE, EPA, and the Department of Commerce to participate in this program. Funding will be funneled through the Ohio Department of Development to the three industries.

The three industries projects are as follows: AAP St. Marys Corporation will introduce a new, more efficient technology for remelting cast aluminum chips produced during the production of aluminum wheels. Fasson Films Division, Avery Dennison Division, will modify a production process by substituting an ultra-violet curing system for an existing solvent-based system. Western Reserve Manufacturing Company, Inc. will eliminate corrosive, polluting waste gases while improving the quality of casting barstock, employed in the manufacturing of bearings, bushings and other critical machinery parts.

Therefore, the grant application is being accepted because DOE knows of no other organization that is conducting or planning to conduct this type of effort in promoting these improved technologies that will result in improved energy efficiency and reduced environmental emissions of industry.

The project period for the grant award is 12-months, and is expected to begin October 1, 1992. DOE plans to provide funding in the amount of $681,000 for this project period.

FOR FURTHER INFORMATION CONTACT: Sharon M. Gill, U.S. Department of Energy, Chicago Support Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 252–2049.

Issued in Chicago, Illinois on September 11, 1992

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 92–22823 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Research Consortium on Fractured Petroleum Reservoirs

AGENCY: U.S. Department of Energy, Bartlesville Project Office.

ACTION: Notice of non-competitive financial assistance (renewal grant) award with the Reservoir Engineering Research Institute.

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office (BPO) announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B) and (D), it

intends to make a non-competitive Financial Assistance (Grant) award through the Pittsburgh Energy Technology Center to Reservoir Engineering Research Institute.

SUPPLEMENTARY INFORMATION:

Awardee: Reservoir Engineering Research Institute.

Grant Number: DE–FG22–91BC14835.

Grant Value: $310,000.00 with the DOE funding of $50,000.00.

SCOPE: Based upon the authority of 10 CFR 600.7(b)(2)(i) criteria (b) and (d), the objective of this proposed project is to provide financial assistance which will permit the DOE, Bartlesville Project Office, to become a member in a Consortium Agreement, conducted by the Reservoir Engineering Research Institute, for a research consortium to carry out in-depth studies of experimental, theoretical, and computational aspects of multipase flow in fractured porous media.

The purpose of this project is to develop a full understanding of the role of capillary, gravity, diffusive, and viscous forces in the flow of fluids in fractured porous media. The research will be subdivided into two tasks. Task I, Experimental research, will examine the reinfiltration process which is a reflection of capillary, gravity, and viscous forces in flow through fractured porous media, Task II, Experiments, will quantify mainly diffusive forces infractured porous media. A plan will be presented to conduct experiments to quantify the physics of multiphase flow in fractured porous media. Increased research activities in 1992 will include (1) new experiments to study viscous-cross flow in fractured porous media, (2) miscible displacement experiments to include both gas-gas, and gas-liquid systems, and (3) two-phase oil-water flow in the fractures.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: Dona G. Sheehan, Telephone: AC 412/892–5918.

Dated: September 11, 1992.

Carroll A. Lambton,

Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 92–22822 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to the college of Santa Fe.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to the College of Santa Fe, Santa Fe, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management educational initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22818 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Nevada Field Office; Issuance of a Financial Assistant Solicitation; Restricted Eligibility

AGENCY: Nevada Field Office (DOE/NV), Department of Energy.

ACTION: Notice of issuance of a financial assistance solicitation; restricted eligibility.

SUMMARY: A notice was previously published in the **Federal Register** dated July 20, 1992, (57 FR 32006) of the availability of Financial Assistance Solicitation Number DE–PS08–92NV11194 for the Science and Technology Education Program. The purpose of this notice is to amend the July 20, 1992, notice to include the following: (1) Geographic restriction to include educational institutions, 26 U.S.C. 501(c)(3), tax-exempt organizations, and not-for-profit entities (including professional and/or technical associations) located in the State of Nevada, Counties of Beaver, Iron, and Washington in the State of Utah and Inyo County in the State of California; (2) to emphasize that the Department of Energy is particularly interested in those programs and activities that increase student and teacher interest in environmental science, technology, and environment issues; (3) that a cost sharing requirement of 10 percent by applicants is mandatory; (4) to revise the release date of the solicitation from "July 13, 1992" to "on or about September 9, 1992"; (5) to include that proposals will be due on or about October 23, 1992; and (6) to revise the beginning date of the project period for grants from "September 15, 1992" to "November 15, 1992."

Applicants located in the above geographic locations who have previously requested a copy of the solicitation are currently on a mailing list and need not respond to this notice.

Issued in Las Vegas, Nevada, on September 1, 1992.

Nick C. Aquilina,

Manager, DOE Nevada Field Office.

[FR Doc. 92–22814 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Field Office—Oak Ridge; Determination of Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b)(2)(i), it intends to issue on a noncompetitive basis a renewal to Vanderbilt University, Nashville, TN, to continue providing academic training and sufficient on-the-job training to interns to enable them to function as professionals in the management of waste resulting from the

decontamination and decommissioning of nuclear facilities. The period of performance for the renewal will be one year. The estimated cost is $345,000.

PROCUREMENT REQUEST NO.: 05–920R21479.001.

PROJECT SCOPE: The grant, awarded August 1, 1984, was as a result of an unsolicited application. Vanderbilt University's July 17, 1992 application is for renewal of the existing grant. This internship program provides six people a year with the proper academic training and sufficient on-the-job training to enable them to function as professionals in the management of waste resulting from the decontamination and decommissioning of nuclear facilities. The grant, which funds a Radioactive Waste Management Internship Program, plays a major role in meeting the objective of providing young, trained personnel to enter the fields of environmental restoration and radioactive waste management. At the end of two years of academic work, the students are assigned for three months to a DOE-owned contractor-operated facility or to a DOE prime contractor to gain first-hand experience in the field. To date, most of the graduating students have chosen to work in the areas for which they have trained, thereby meeting the primary objective of the program. In view of the nation's environmental consciousness related to cleanup of Department of Energy facilities, it is clear that the increase in the number of skilled personnel trained in radioactive waste management as a result of the Vanderbilt University Internship Program will aid in strengthening the Department's position of assuring that contaminated sites are properly decontaminated and decommissioned in an efficient and timely manner. In order to maintain continuity of a long-range program that has entered its eighth year, eligibility for renewal of this award is restricted to Vanderbilt University.

FOR FURTHER INFORMATION CONTACT: Rick Korynta, USDOE, Oak Ridge Field Office, P.O. Box 2001, Oak Ridge, TN 37831–8622, (615) 576–0951.

Issued in Oak Ridge, TN on September 10, 1992.

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Operations Office.

[FR Doc. 92–22821 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award

AGENCY: Department of Energy (DOE) Albuquerque Field Office (AL).

ACTION: Notice of noncompetitive financial assistance application for a grant to the Western New Mexico University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), which authorizes a financial assistance award to be made if the activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity; AL gives notice of its plans to award a one-time grant to Western New Mexico University, Silver City, New Mexico, for the enhancement of math and science teacher education. The total estimated cost of the project is $10,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purposes to be served by this award is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing environmental management educational initiatives through college and university curriculum development. AL is providing this assistance under the auspices of the Department's Environmental Restoration and Waste Management Five-Year Plan. Specific authority is Public Law 101–510, section 3161, DOE Science Education Enhancement Act of 1990. The particular significance of the activity to be funded is the enhancement of math and science teacher training required for the satisfactory completion of AL's existing Extended Education Programs in economically disadvantaged secondary school districts selected by the New Mexico State Department of Education.

FOR FURTHER INFORMATION CONTACT: William L. McCullough, Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400, Telephone: (505) 845–6442.

Issued in Albuquerque, New Mexico on September 8, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–22820 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TM93–1–20–001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

September 15, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin"), on September 3, 1992, tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, substitute tariff sheets listed in Attachment A to the filing, and proposed to be effective October 1, 1992.

Algonquin states that pursuant to Section 32 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Algonquin is filing the tariff sheets listed in Attachment A to track the decrease in the Commission's Annual Charge Adjustment Surcharge for the Fiscal Year 1993.

Algonquin states that the net effect of the instant filing is to decrease the commodity charge by 0.01¢ per MMBtu for Rate Schedules F–1, F–2, F–3, F–4, WS–1, I–1, E–1, I–2, T–1, T–LG, T–X, AFT–1, AFT–3, AFT–4, AIT–1, PSS–T, FTP, X–33, X–35 and X–37 and to increase the third party injection rate in Rate Schedules STB and SS–III by the same amount.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–22707 Filed 9–18–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ93–1–4–000 and TM93–1–4–000]

Granite State Gas Transmission, Inc; Proposed Changes in Rates

September 15, 1992.

Take notice that on September 9, 1992, Granite State Gas Transmission, Inc.

(Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5039, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2, containing changes in rates for effectiveness on October 1, 1992.

Second Revised Volume No. 1

Eighteenth Revised Sheet No. 21
Seventh Revised Sheet No. 22
Seventeenth Revised Sheet No. 25

First Revised Volume No. 2

Second Revised Sheet No. 8
Third Revised Sheet No. 18
First Revised Sheet No. 18-A
Fifth Revised Sheet No. 28
Fourth Revised Sheet No. 29
Third Revised Sheet No. 39
First Revised Sheet No. 39A
Second Revised Sheet No. 63
Second Revised Sheet No. 73

According to Granite State, the proposed rate changes reflect its projected purchase gas costs and sales for the fourth quarter of 1992 and other adjustments to sales, storage and transportation services to reflect the effect of the Annual Charges Adjustment for the fiscal year beginning October 1, 1992.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of the Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22714 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-684-000]

Mississippi River Transmission Corp.; Request Under Blanket Authorization

September 11, 1992.

Take notice that on September 1, 1992, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP92-684-000 a request pursuant to § 157.205 of the Commission's Regulations for permission and approval to abandon a lateral line and sales tap used to serve St. Louis Steel Products, Inc. (St. Louis Steel), a direct industrial customer, and to abandon the related firm sales service to St. Louis Steel located in St. Louis, Missouri under MRT's blanket certificate issued in Docket No. CP82-489-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

MRT proposes to abandon a lateral line, sales tap and sales service to St. Louis Steel at its manufacturing complex located in St. Louis, Missouri. MRT states that, in the past, it provided firm sales service to St. Louis Steel through an existing four inch diameter service line (Line A-51) and sales tap. MRT states that St. Louis Steel has completely and permanently ceased its operations and demolished its St. Louis manufacturing complex. No other customers are served by this lateral and sales tap, it is indicated. MRT states that St. Louis Steel has consented, in writing, to MRT's abandonment of its sales service obligation. MRT has already abandoned the Line A-51 in place and removed the meter used to serve St. Louis Steel as part of a miscellaneous rearrangement of facilities occasioned by the relocation of a railroad track, it is stated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22706 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1281-022 and CP92-0367-001]

Natural Gas Pipeline Company of America; Changes in FERC Gas Tariff

September 15, 1992.

Take notice that on September 9, 1992, Natural Gas Pipeline Company of America (Natural) submitted for filing tariff sheets to be part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective on the dates indicated in the filing.

Natural states that a portion of the tariff sheets were submitted in compliance with the Commission's order issued November 19, 1990 in Docket No. CP89-1281-000, *et al.*

Natural states that the proposed tariff sheets supersede the sheets filed in Docket No. RP92-23-000 in compliance with that order which were based on incomplete information concerning service agreement dates and their related termination dates.

Natural further states that another portion of the tariff sheets submitted were submitted in compliance with Ordering Paragraph (A) of the Commission's order issued August 5, 992 in Docket No. CP92-367-000.

Natural states that it has submitted the present tariff sheets to reflect the appropriate cancellations of its Rate Schedule MS-2 storage services and specifically the abandonments authorized for certain of its customers.

Natural further states that the tariff sheets submitted also reflect the continuation of storage services provided by Natural for the remaining ten (10) customers under Natural's Rate Schedule MS-2 via the renewal of these customers' service agreements within previously certificated levels.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective as indicated by the November 19th order and the August 5th order as well as dates previously authorized by the Commission in earlier of Natural's proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance

with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22716 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-111-006]

North Penn Gas Co.; Tariff Change

September 15, 1992.

Take notice that on September 4, 1992 North Penn Gas Company (North Penn) tendered for filing the following tariff sheets with the requested effective dates:

	Effective Date
Fifth Revised Sheet No. 1	August 5, 1992.
First Revised Sheet No. 2	August 5, 1992.
First Revised Sheet No. 3	August 5, 1992.
Thirteenth Revised Sheet No. 3A	October 1, 1992.
Forth-first Revised Sheet No. 4	August 5, 1992.
Third Revised Sheet No. 10	August 5, 1992.
First Revised Sheet No. 11	August 5, 1992.
Third Revised Sheet No. 15H	October 1, 1992.
Fourth Revised Sheet No. 15H1	October 1, 1992.
Second Revised Sheet No. 15H1a	October 1, 1992.
Original Sheet No. 15H1b	June 3, 1992.
First Revised Sheet No. 15H(6)	August 5, 1992.

According to North Penn, the above-listed sheets are submitted in compliance with orders issued in Docket Nos. RP91-111, et al., which approved a settlement filed in such dockets on March 13, 1992. Specifically, North Penn states, in those orders the Commission directed North Penn to file tariff sheets that are necessary in light of its new status as a Hinshaw pipeline; to implement the take-or-pay surcharge set forth in the settlement; and to close out North Penn's Account 191.

The specific take-or-pay surcharge, which is proposed to take effect October 1, 1992, is 2.39¢ per Mcf. North Penn also includes in the filing documents entitled appendix B and appendix D which, North Penn states, are revised workpapers underlying its proposed take-or-pay surcharge.

In the filing North Penn requests waiver of any regulations as may be required to permit the tariff sheets to become effective as requested.

North Penn states that copies of the filing are being mailed to each of the persons listed on the service list in Docket Nos. RP91-111, et al.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22715 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-166-012]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

September 15, 1992.

Take notice that on September 8, 1992, Northwest Pipeline Corporation (Northwest) tendered the following for filing and acceptance to be a part of its FERC Gas Tariff.

Second Revised Volume No. 1

Pro Forma Sheet No. 10
Pro Forma Sheet No. 11

Northwest states that the purpose of the filing is to file revised pro forma tariff sheets and rates to reflect the removal of costs from sales rates associated with gathering and production facilities to be abandoned pursuant to permission granted in Docket No. CP91-2392-000. This filing is being made in compliance with Commission order issued August 24, 1992 in Docket No. RP91-166-010.

Northwest states that copies of the filing is being served on all parties of record in Docket No. CP91-2392 and RP91-166 and to all affected customers and regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22713 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-55-004]

Questar Pipeline Co.; Tariff Filing

September 15, 1992.

Take notice that on August 28, 1992, Questar Pipeline Company tendered for filing and acceptance First Revised Sheet No. 50 and Original Sheet No. 50A to its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1992.

Questar states that the purpose of this filing is to comply with the Commission letter order issued May 29, 1992, in Docket No. TA92-1-55-000 which directed Questar to revise its PGA tariff provision to reflect that its PGA sales rates, both its current adjustment and surcharge rate components, will not reflect costs associated with non-sales service fuel use and lost and unaccounted-for gas.

Questar states that a hard copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22711 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-695-000]

Texas Gas Transmission Corp.; Application

September 14, 1992.

Take notice that on September 8, 1992, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No.

CP92–695–000 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon by removal a meter station used to perform transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that the meter station proposed to be abandoned is a three-inch meter station known as the Morringsport-Cedar Grove Meter Station located on Texas Gas' Sharon-Carthage 20-inch pipeline in Caddo Parish, Louisiana. It is stated that the meter station was originally placed into service on October 23, 1990, as an interconnection between Texas Gas and Mooringsport Energy Transmission Corporation (Mooringsport), a producer, to transport gas for various shippers. Texas Gas states that Mooringsport's production behind this meter station is now depleted and the Mooringsport has plugged and abandoned the well associated with this production. It is indicated that Mooringsport has informed Texas Gas that it would no longer deliver gas to Texas Gas at that point.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practices and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92–22705 Filed 9–18–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–137–006]

Transcontinental Gas Pipe Line Corp. Tariff Filing

September 15, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on August 31, 1992 certain revised tariff sheets to Third Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are listed in Appendix A attached to the filing. The proposed effective date of the revised tariff sheets is September 1, 1992.

TGPL states that the purpose of the instant filing is to place into effect on September 1, 1992 upon the conclusion of the suspension period in this proceeding, the rates filed herein on March 2, 1992, as adjusted (1) to eliminate the costs associated with facilities not in service as of July 31, 1992 and (2) to incorporate intervening filings which have been approved by, or are pending before the Commission to become effective subsequent to the March 2, 1992 filing in this docket. TGPL states that it is resubmitting the filed language contained in section 5.8 of Rate Schedules FT and IT (Procedures for Resolution of Historical Imbalances) as pro forma tariff language. Also, TGPL states it is proposing to reserve section 3.6 of Rate Schedule IT and eliminate § 28.2(g) from the General Terms and Conditions of its Third Revised Volume No. 1 Tariff in recognition of the expiration on September 1, 1992 of TGPL's authority to broker its firm transportation rights on consenting upstream pipelines.

TGPL states that copies of the filing are being mailed to customers, state commissions and other interested parties to Docket No. RP92–137.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–22708 Filed 9–18–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–230–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

September 15, 1992.

Take notice that Trunkline Gas Company (Trunkline) on September 4, 1992 tendered for filing the revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2:

First Revised Fourth Revised Sheet No. 2496.1
First Revised Fourth Revised Sheet No. 2553.1

Trunkline proposes that these sheets become effective April 1, 1992.

Trunkline states that these revised tariff sheets are being filed to amend Rate Schedules T–61 and T–62 for the transportation of natural gas provided jointly by Trunkline and Panhandle Eastern Pipe Line Company (Panhandle) on behalf of United Cities Gas Company (United Cities) and Columbia Gas Transmission Corporation (Columbia Gas), respectively, to reflect Panhandle's current transportation rates as approved in Panhandle's Docket Nos. RP91–229–003, 004 and 005 by the Commission's Order On Report Filed Pursuant to Opinion No. 369 And Motion Rate And Compliance Filing issued June 1, 1992. In these joint transportation arrangements, Panhandle, acting as an accounting conduit, provides the billing on behalf of Trunkline.

Trunkline respectfully requests waiver of § 154.22 of the Commission's Regulations and, to the extent required, that the Commission grant any other waivers as may be necessary for the acceptance of the revised tariff sheets.

Trunkline states that copies of the filing is being served on Panhandle, United Cities, Columbia Gas and the applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before

September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22709 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-48-006]

Viking Gas Transmission Co.; Compliance Filing

September 15, 1992.

Take notice that on September 3, 1992, Viking Gas Transmission Company ("Viking") filed Third Substitute Second Revised Sheet No. 65 to be effective June 1, 1992.

Viking states that the purpose of this filing is to further comply with the order issued by the Commission on July 2, 1992 in the above-referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22712 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA93-1-35-000]

West Texas Gas, Inc.; Filing

September 15, 1992.

Take notice that on September 2, 1992, West Texas Gas, Inc. ("WTG") filed Third Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective October 1, 1992. Third Revised Sheet No. 4 and the accompanying explanatory schedules constitute WTG's annual PGA filing submitted in accordance with the Commission's purchased gas adjustments regulations.

WTG states copies of the filing were served upon WTG's customers and interested state commissions.

On September 3, 1992, WTG supplemented its filing with a request pursuant to § 154.306 of the Commission's regulations for specific Commission approval for surcharge recovery of certain actual gas costs that exceeded its forecasted gas costs during the last of the four test intervals during the deferral period. WTG states that the amount for which approval is requested is $86,487.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before September 30, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22710 Filed 9-18-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: October 1, 1992) 9 a.m.-5 p.m.

Place: The Potomac Inn, 3 Research Court, I-270 & Shady Grove Road, Rockville, Maryland 20850.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER-10), Office of Energy Research, Washington, DC 20585, Telephone: 301-903-3081.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy (DOE) on the many complex scientific and technical issues that arise in the planning, management, and implementation of the research program for the Office of Basic Energy Sciences (BES).

Tentative Agenda: Briefings and discussions of: *October 1, 1992:*

- Draft 1992 BESAC Report.
- BES Program Management.
- Office of Program Analysis (OPA) Peer Review of BES Projects.
- Brookhaven Response to BESAC Questions.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonble provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 15, 1992.

J. Rover Franklin,

Acting Advisory Committee Management Officer.

[FR Doc. 92-22824 Filed 9-18-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[Docket No. 92-113-NG, et al.]

Applications for Blanket Authorization to Import and Export Natural Gas; International Resource Management Corp., et al.

In the matter of International Resource Management Corp., Docket No. 92-113-NG; Libra Marketing Co., Docket No. 92-114-NG; Selkirk Cogen Partners, L.P., Docket No. 92-115-NG; Tristar Gas Marketing Co., Docket No. 92-116-NG; Union Pacific Fuels, Inc., Docket No. 92-117-NG; Vector Energy (U.S.A.) Inc., Docket No. 92-118-NG.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that the applications identified in the attached appendix were filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. The applicants request blanket authorization to import and/or export natural gas from and to Canada and/or Mexico on a short-term or spot market basis over a period of two years beginning on the date of the first delivery. The proposed imports and exports would take place at any point on the borders of the United

States where existing natural gas pipeline facilities are located.

Copies of these applications are available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the below address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. You are invited to submit protests, motions to intervene, notices of intervention, and written comments with respect to any docket listed above.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in the specific docket at the address listed below no later than 4:30 p.m., eastern time, October 21, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: P.J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4819.

SUPPLEMENTARY INFORMATION: Notice of these applications is consolidated for administrative reasons, but DOE is conducting separate proceedings and will issue individual decisions on each application. Any protestor, intervenor, commenter, or other respondent who wishes to participate in more than one docket must submit a separate filing in each docket. DOE's decision on applications for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications DOE considers domestic need for the gas and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose any of these applications, should comment on these issues as they relate to the requested import/export authorizations. The applicants assert that their proposals are in the public interest. Parties opposing any of these applications bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in these proceedings until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to a proceeding and to have written comments considered as the basis for any decision on an application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to an application will not serve to make the protestant a party to that proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on an application. The filing of an intervention with respect to a particular docket will not serve to make the person a party in any other docket. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed to the specific docket with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on an application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

Issued in Washington, DC, on September 11, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

APPENDIX

Filing date	Applicant name and docket number	Two-year maximum			Comments
		Import volume (Bcf)	Export volume (Bcf)	Import/ export volume * (Bcf)	
8/27/92	International Resource Management Corp. (92–113–NG).	50.0	50.0		Imports/Exports from/to Canada and Mexico.
9/02/92	Libra Marketing Company (92–114–NG)		36.5		Exports to Mexico.
9/03/92	Selkirk Cogen Partners, L.P. (92–115–NG)			57.0	Imports/Exports from/to Canada.
9/04/92	Tristar Gas Marketing (92–116–NG)	73.0	73.0		Imports from Canada and Exports to Mexico.
9/08/92	Union Pacific Fuels, Inc. (92–117–NG)		146.0		Exports to Mexico.
9/11/92	Vector Energy (U.S.A.) Inc. (92–118–NG)	30.0			Imports from Canada.

* Represents combined total of imports and exports.

[FR Doc. 92–22827 Filed 9–18–92; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 92-15; Certification Notice—107]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Nissequogue Cogen Partners has submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of the self-certification filing are available for public inspection upon request in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russel at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) on the day it is filed with the Secretary. The Secretary is required to publish a notice in the Federal Register that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Nissequogue Cogen Partners, c/o CEA Stony Brook, Inc., Ridgewood, New Jersey.

Operator: CEA Stony Brook, Inc.

Location: The State University of New York at Stony Brook, Stony Brook, New York.

Plant Configuration: Open Cycle cogeneration facility.

Capacity: 43 megawatts.

Fuel: Natural gas.

Purchasing Utility: Long Island Lighting Company.

Expected In-Service Date: April 30, 1994.

Issued in Washington, DC on September 10, 1992.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-22826 Filed 9-18-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; week of August 21 Through August 28, 1992

During the week of August 21 through August 28, 1992, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 15, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 21 through August 28, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 24, 1992	CIC Research, Inc., San Diego, CA	LFA-0234	Appeal of an information request denial. *If granted:* The July 31, 1992 Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded, and CIC Research, Inc. would receive access to information related to their proposal and the award of a contract resulting from BPA's Request for Proposal No. DE-RP79-92BP25174.
Aug. 24, 1992	Citronelle-Mobile Gathering/Globe Manufacturing Co. *et al.*, Mobile, AL	RR336-1	Request of modification/rescission in the Citronelle-Mobile Gathering Refund proceeding. *If granted:* The Decision and Order (Case No. RF336-1 *et al.*) issued to Globe Manufacturing Co. *et al.* would be modified regarding the firm's application for refund submitted in the Citronelle-Mobile Gathering Refund proceeding.
Aug. 24, 1992	Gallup-Silkworth Petroleum Products, Ann Arbor, MI.	LEE-0044	Exception to the reporting requirements. *If granted:* Gallup-Silkworth Petroleum Products would not be required to file Form EIA-782-B, "Resellers'/Retailers' Petroleum Products Sales Report."
Aug. 26, 1992	U.S. News & World Report, Washington, DC	LFA-0235	Appeal of an information request denial. *If granted:* The July 23, 1992 Freedom of Information Request Denial issued by the Oak Ridge Field Office would be rescinded, and U.S. News & World Report would receive access to DOE information.
Aug. 27, 1992	McGraw-Hill Nuclear Publications, New York, NY	LFA-0236	Appeal of an information request denial. *If granted:* McGraw-Hill Nuclear Publications would receive access to correspondence between former Secretary of Energy Donald Hodel and persons, agencies, companies or organizations outside the Department of Energy from January 1993 through February 1985 regarding DOE's view on whether it has a legal responsibility to accept spent nuclear fuel by January 31, 1998.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of August 21 through August 28, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 27, 1992	McGraw-Hill Nuclear Publications, New York, NY	LFA-0237	Appeal of an information request denial. *If granted:* McGraw-Hill Nuclear Publications would receive access to correspondence between former Secretary of Energy John Herrington and person, agencies, companies or organizations outside the Department of Energy from February 1985 through December 1988 regarding DOE's view on whether it has a legal responsibility to accept spent nuclear fuel by January 31, 1998.
Aug. 24, 1992	Texaco/Village of LaGrange, Washington, DC	RR321-115	Request for modification/rescission in the Texaco Refund Proceeding. *If granted:* The December 6, 1990 Decision and Order (Case No. RF321-4829) issued to Village of LaGrange would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of August 21 through August 28, 1992]

Date received	Name of refund proceeding/name of refund applicant	Case No.
8/24/92	NGL Supply, Inc	RF342-305.
8/24/92	Bootheel Petroleum Co., Inc	RF304-13256.
8/24/92	Fun Time, Inc	RF304-13257.
8/25/92	Ed & Marty Fuel Oil	RF304-13258.
8/25/92	Ed Edmistor	RF304-13259.
8/25/92	Boston Edison Company	RF326-326.
8/25/92	Herman Grand & Merlyn Smith	RF304-13260.
8/25/92	Sunset East Car Wash	RF304-13261.
8/25/92	Jack Goodrich Distributing	RF304-13262.
8/25/92	Herman Grand & Merlyn Smith	RF304-13263.
8/27/92	Cenex/Land O'Lakes	RF342-306.
8/28/92	Foster Gas & Appliance Co	RF304-13264.
8/21/92 thru 8/28/92	Texaco Refund, applications received	RF321-19148 thru FR321-19199.
8/28/92 thru 8/28/92	Gulf Oil Refund, applications received	RF300-20476 thru RF300-20501.
8/21/92 thru 8/28/92	Crude Oil, applications received	RF272-93819 thru RF272-93833.

[FR Doc. 92-22825 Filed 9-18-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Irrigation Efficiency Program, Notice of Proposed Cooperative Agreement

AGENCY: Western Area Power Administration, DOE.

ACTION: Irrigation Efficiency Program, Notice of Proposed Cooperative Agreement.

SUMMARY: The Department of Energy announces their intent, pursuant to 10 Code of Federal Regulations 600.7(b), to renew the cooperative agreement with the Colorado State Soil Conservation Board (CSSCB) to manage the irrigation efficiency testing program for the State of Colorado. This noncompetitive agreement will continue the testing and promotion of energy efficient irrigation practices. This program now is partially self-sustaining.

ADDRESSES: Requests for further information should be submitted to: Ms. Ruth Adams, Contract Specialist, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-7709, Purchase Requisition Number: JJ-PR-17979.

SUPPLEMENTARY INFORMATION: In 1981, the Western Area Power Administration (Western) initiated a Conservation and Renewable Energy (C&RE) Program. Among the various program activities is an Irrigation Pump Testing and Equipment Loan Program with Western customers. The Loveland Area Office has been working with CSSCB to mutually benefit the State and the Federal Government by improving end-users' pump efficiencies and agricultural practices. Western's goals include the efficient utilization of energy resources and support programs such as this through its C&RE Program. CSSCB is committed to the economic success of agriculture in its State and is in the best position to manage this program. CSSCB and the United States Department of Agriculture's Soil Conservation Service have worked with local soil conservation districts in irrigation and water efficiency programs and will provide expertise and training to CSSCB personnel hired to fulfill the objectives of this program.

Solicitation Number: DE-FC65-92WJ05725.

Scope of Project

The Irrigation Efficiency Program is designed to develop and implement an efficiency testing activity within the State of Colorado. The program will include an appropriate management plan for the continuation of the program data collection and reporting responsibilities and coordination of those activities with other agencies involved in energy conservation such as local utilities and statewide organizations.

Issued at Golden, Colorado, August 25, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92-22813 Filed 9-18-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4204-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before October 21, 1992.

To obtain a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: National Estuary Program (ICR No. 1500.02).

Abstract: ICR 1500.02 requests a renewal of OMB clearance for the information collection requirements associated with the National Estuary Program. The National Estuary Program (NEP) is designed to support the long-term management of nationally significant estuaries by protecting and restoring them. Estuaries are designated as nationally significant following their nomination by the governor of a State or by the EPA Administrator. If EPA accepts an estuary into the NEP, the Agency convenes a Management Conference, to which Federal, State, and other interested parties are invited.

The Management Conferences assess the condition of the estuaries and summarize problems to be addressed, setting goals for the restoration or preservation of the estuaries. Each Management Conference produces a Comprehensive Conservation and Management Plan (CCMP) and oversees its implementation.

States and other applicants may apply for Federal funding to administer the Management Conferences and to study the problems of an estuary. Applicants must prepare an Annual Work Plan (AWP) before funding will be granted. The AWP must present the primary goals to be pursued as well as the general activities that are planned for a particular estuary. The AWP must also discuss funding for the projects.

Burden Statement: The average burden associated with the National Estuary Program is 175 hours per response. This total includes time for searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: States.

Estimated Number of Respondents: 21.

Estimated Total Annual Burden on Respondents: 3675 hours.

Frequency of Collection: Annual.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW.,Washington, DC 20460.

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW.,Washington, DC, 20503.

Dated: September 3, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–22652 Filed 9–18–92; 8:45 am]

Billing Code 6560–50–F

[FRL–4508–2]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for Two Equivalent Method Determinations

Notice is hereby given that on August 14 and August 21, 1992, the Environmental Protection Agency received applications from Lear Siegler Measurement Controls Corporation, 74 Inverness Drive East, Englewood, Colorado 80112–5189, to determine if their Monitor Labs Models 9850 Sulfur Dioxide Analyzer and 9810 Ozone Analyzer should be designated by the Administrator of the EPA as equivalent methods under 40 CFR part 53. If, after appropriate technical study, the Administrator determines that either of these methods should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**.

John H. Skinner,

Acting Assistant Administrator for Research and Development.

[FR Doc. 92–22786 Filed 9–18–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–00124; FRL–4164–8]

Toxic Release Inventory Environmental Indicator; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a 1–day public meeting to discuss the development of the Toxic Release Inventory Environmental Indicator. This meeting will be held following the National Workshop on Environmental Indicators and Goal Setting hosted by the Council of State Governments' Center for the Environment and U.S. EPA's Office of Strategic Planning and Environmental Data. In connection with the public meeting the Agency has prepared a methodology paper that will be available at no charge through the address or telephone number given under FOR FURTHER INFORMATION CONTACT.

DATES: The meeting will take place on Wednesday, September 30, 1992, from 1 p.m. to 5 p.m. The National Workshop on Environmental Indicators and Goal Setting will be held on September 28, 29, and 30, 1992.

ADDRESSES: The meeting will be held at: The Holiday Inn - Chicago City Centre, 300 East Ohio St., Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Nicolaas Bouwes, Economics and Technology Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mail Stop TS–779, 401 M St., SW., Washington, DC 20460. Telephone: 202–260–1567. For information on The National Workshop on Environmental Indicators and Goal Setting meeting call Darlene Cockfield at 202–260–4907.

SUPPLEMENTARY INFORMATION: In 1989, EPA Administrator William Reilly outlined the goals and processes for establishing a strategic planning and accountability process at the Agency. Underlying this approach is the Agency's desire to set priorities and shift resources to areas with the greatest opportunity to achieve reductions in health and environmental risks. As part of this initiative, the Administrator set forth a plan to state goals and develop indicators of environmental progress for achieving these goals. Tracking this progress will allow the Agency to measure its successes in implementing environmental protection and pollution prevention programs, and to formulate strategic plans for improving the course of future environmental progress.

In general terms, the indicators envisaged will allow EPA to track national and regional changes in human health and environmental well-being over time. The indicator will utilize existing Agency data bases and models. The indicator will be calculated on an annual basis as a function of chemical release volumes, as represented by reported emissions on the Toxic Release Inventory, chemical toxicity, exposure potential, and exposed population. Changes in the annual calculation will provide a measure of increase or

decrease in human health and ecological well-being.

EPA has developed a draft final methodology paper that provides an in-depth discussion of the health-based indicator. Copies of this methodology paper will be available to the public after September 14, 1992. Requests for copies can be made by calling or writing the contact person listed under FOR FURTHER INFORMATION CONTACT.

Dated: September 10, 1992.

Mark A. Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-22778 Filed 9-18-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4508-1]

Lynn Pierce Property Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Lynn Pierce Property Site, Apex, North Carolina, with H. Michael Fincher. EPA will consider public comments on proposed settlement for thirty (30) days. EPA may withdraw or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Carolyn McCall, Cost Recovery Section, Waste Management Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404-347-5059.

Written comments may be submitted to the person above within thirty days from the date of publication.

Dated: September 2, 1992.

Joseph R. Franzmathes,

Director, Waste Management Division.

[FR Doc. 92-22787 Filed 9-18-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-59950; FRL 4164-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 3 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-192, September 13, 1992.

Y 92-193, 92-194, September 14, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-192

Importer. Vetrotex Certainteed Corporation.

Chemical. (G) Water emulsion at different concentration of polypropylene modified with a carboxilic groups insertion and emulsionated with surfactants not ionic, such as ethononyls phenols.

Use/Import. (G) Coating. Import range: Confidential.

Y 92-193

Importer. Confidential.

Chemical. (G) Vinyl acetate-ethylene-acrylate copolymer.

Use/Import. (G) Coating. Import range: Confidential.

Y 92-194

Importer. Confidential.

Chemical. (G) Polyester polymer.

Use/Import. (S) Xerographic toner use. Import range: Confidential.

Dated: September 4, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-22783 Filed 9-18-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 3112
Name: Aimi Cargo Forwarding, Inc.
Address: 4767 N.W. 77nd Ave., Miami, FL 33166
Date Revoked: June 22, 1992
Reason: Failed to furnish a valid surety bond

License Number: 3462
Name: C & F International, Inc.
Address: 12900 Hall Rd., Suite 370, Sterling Heights, MI 48078
Date Revoked: July 18, 1992
Reason: Failed to furnish a valid surety bond

License Number: 31
Name: P.F. Hoxter
Address: 1205 St. Charles Ave., Apt. 910 New Orleans, LA 70130
Date Revoked: July 21, 1992
Reason: Surrendered license voluntarily

License Number: 3351
Name: Omega International, Inc.
Address: 10050 N.W. 116th Way, Suite 17, Miami, FL 33178
Date Revoked: July 29, 1992
Reason: Failed to furnish a valid surety bond

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92-22729 Filed 9-18-92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Foreign Commerce, Inc., 4544 SW., 75th Avenue, Miami, FL 33155, Officers: Patricia A. Wilson, President/Director/Treasurer, Harry R. Wheeler, III, Vice President/Director, Charles S. Wilson, Secretary/Director

KNL International, Inc., 497 10th St., NW., Atlanta, GA 30318, Officers: George Liu, President, Dolan L. Suggs, Treasurer

Anthony Scoppetta, 21 Shadow Stone Drive, Blackwood, NJ 08012, Sole Proprietor

Geotrans International, Inc., 5532 Woodruff Ave., suite 350, Lakewood, CA 90714, Officers: Michael Paul Courtemanche, President, Lionel Wong Achuck, Jr., Secretary/Director/Stockholder, Wilfrido C. Tiongson, Treasurer

Transzip International Corp., c/o Ada Lu, 20 Haskel Drive, Lawrence, NJ 08648, Officer: Ada Lu, President/Director

Vialoma Trading Corporation dba Singen Shipping, 3400 McIntosh Road, Bldg. E Bav 6, Ft. Lauderdale, FL 33316, Officers: Catalina Ramirez, President, Alessio Vasquez Ramirez, Vice President, Marisol Vasquez Ramirez, Treasurer, Ovidio Vasquez Ramirez, Secretary

Mark VII Transportation Co. Inc. dba Mark VII International, 965 Ridge Lake Blvd., Suite 103, Memphis, TN 38120, Officers: R.C. Matney, President, David H. Wedaman, Exec. Vice President, Janet Pullen, Secretary

Golden Trust Forwarding, 2–14 Lawrence Park, Piermont, NY 10968, Dina Karabachi, Sole Proprietor

Kelly's Freight Forwarders, Inc., 1416 NW., 82nd Ave., Miami, FL 33126, Officers: Luis E. Colindres, President/Director, Angelina Colindres, Vice President

By the Federal Maritime Commission.

Dated: September 15, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–22749 Filed 9–18–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

City Holding Company, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to engage *de novo* in providing back-up data processing services to non-affiliated financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in West Virginia, Ohio, Kentucky, and Virginia.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Fidelity Southern Corporation, Decatur, Georgia; to engage *de novo* through its subsidiary, Fidelity National Capital Investors, Inc., Decatur, Georgia, in providing investment or financial advice pursuant to § 225.25(b)(4); providing full service securities brokerage services pursuant to § 225.25(b)(15); and underwriting and dealing in government obligations and money market interests pursuant to § 225.25(b)(16) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CBT Corporation, Paducah, Kentucky; to engage *de novo* through its subsidiary, Fidelity Credit Corporation, Paducah, Kentucky, in the sale of property insurance to its clients pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Continental Bancorporation, Las Vegas, Nevada; to engage *de novo* through its subsidiary, Continental Trust Company, Las Vegas, Nevada, in performing trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y. These activities will be conducted in the State of Nevada.

Board of Governors of the Federal Reserve System, September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–22755 Filed 9–18–92; 8:45 am]

BILLING CODE 6210–01–F

First Community Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute

and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 9, 1992.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. First Community Bancorp, Inc., Shelbyville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank of Bedford County, Shelbyville, Tennessee.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Heritage Financial Services, Inc., Blue Island, Illinois; to acquire 100 percent of the voting shares of Alsip Bancorporation, Inc., Alsip, Illinois, and thereby indirectly acquire Alsip Bank and Trust, Alsip, Illinois.

2. Seaway Bancshares, Inc., Chicago, Illinois; to merge with Highland Community Co., Chicago, Illinois, and thereby indirectly acquire Highland Community Bank, Chicago, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Commercial Corporation, Little Rock, Arkansas; to acquire at least 80 percent of the voting shares of First City, Inc., Memphis, Tennessee, Memphis, Tennessee, and thereby indirectly acquire First City National Bank, Memphis, Tennessee.

2. UniSouth Capital Corporation, Columbus, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of UniSouth Banking Corporation, Columbus, Mississippi.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Dairyland Bank Holding Corp., La Crosse, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of La Farge State Bank, La Farge, Wisconsin, and Bank of Alma, Alma, Wisconsin.

2. Norwest Corporation, Minneapolis, Minnesota, to acquire and Norwest Colorado, Inc., Denver, Colorado, to merge with Rocky Mountain Bankshares, Inc., Aspen, Colorado, and thereby indirectly acquire The Bank of Aspen, Aspen, Colorado.

E. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Independence Bancshares, Inc., Independence, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank, Independence, Kansas.

2. Liberty Bancorp, Inc., Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of Mid-City Bank, N.A., Midwest City, Oklahoma.

Board of Governors of the Federal Reserve System, September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22756 Filed 9-18-92; 8:45 am]

BILLING CODE 6210-01F

Meade C. Hopkins, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 5, 1992.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Meade C. Hopkins, Pulaski, Tennessee; to retain 23.6 percent of the voting shares of Frankewing Bancshares, Inc., Frankewing, Tennessee, as the result of a stock redemption, and thereby indirectly acquire Bank of Frankewing, Frankewing, Tennessee.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Jerome N. Heim, Hoxie, Kansas; to acquire an additional 2.54 percent for a total of 27.50 percent; Jon W. Pope, Hoxie, Kansas, to acquire an additional 20.55 percent for a total of 20.97; and Lois A. Madison, Hoxie, Kansas, to acquire 20.97 percent of the voting shares of Northwest Bancshares Inc., Colby, Kansas, and thereby indirectly acquire Peoples State Bank, Colby, Kansas

2. John D. Mapes, Norton, Kansas; to acquire 42.79 percent; John D. Mapes Individual Retirement Account, Norton, Kansas, to acquire 4.99 percent; Lee D. Mapes Individual Retirement Account, Norton, Kansas, to acquire 2.23 percent; Robert J. Mapes, Jr. Individual Retirement Account, Norton, Kansas, to acquire 41.99 percent; and Joyce A. Mapes Individual Retirement Account, Norton, Kansas, to acquire 8.01 percent of the voting shares of Consolidated Insurance, Inc., Hill City, Kansas, and thereby indirectly acquire Consolidated State Bank, Hill City, Kansas.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222.

1. John T. Cannon, Caldwell, Texas, to acquire 7.8 percent for a total of 12.8 percent; Kenneth B. Clark, Caldwell, Texas, to acquire 7.8 percent for a total of 13.8 percent; Switzer L. Deason, Bryan, Texas, to acquire 7.8 percent for a total of 12.8 percent; Jarvis H. Porter, Caldwell, Texas, to acquire 2.8 percent for a total of 12.8 percent; M. Frank Thurmand, Bryan, Texas, to acquire 7.8 percent for a total of 12.8 percent; and William R. Vance, Bryan, Texas, to acquire 7.8 percent for total of 12.8 percent of the voting shares of Caldwell Capital Corporation, Caldwell, Texas, and thereby indirectly acquire First State Bank in Caldwell, Caldwell, Texas.

Board of Governors of the Federal Reserve System, September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22757 Filed 9-18-92; 8:45 am]

BILLING CODE 6210-01-F

Key Corp, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking

activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Key Corp, Albany, New York; Key Pacific Bancorp, Anchorage, Alaska; and Key Bancshares of Washington, Inc., Seattle, Washington; to acquire 100 percent of the voting shares of Puget Sound Bancorp, Tacoma, Washington, and thereby indirectly acquire Northwestern National Bank, Port Angeles, Washington; Puget Sound National Bank, Tacoma, Washington; Puget Sound Savings Bank, Seattle, Washington; Bellingham National Bank, Bellingham, Washington; and San Juan County Bank, Friday Harbor, Washington.

In connection with this application, Applicants also propose to acquire Puget Sound Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting, as reinsurer, of credit life insurance directly related to extensions of credit by PSB's banking subsidiaryies pursuant to § 225.25(b)(8)(i); Washington Mortgage Corporation, Seattle, Washington, and thereby engage in lending activities, in twelve western states, including large income property loans, including industrial, commercial retail, multi-family, hotel and Federal Housing Authority-insured project mortgages, and providing real estate equity financing services pursuant to § 225.25(b)(1)(iii); and The Tacoma Partnership, Federal Way, Washington, and thereby engage in owning and operating an apartment building for very low income families pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22758 Filed 9-18-92; 8:45 am]

BILLING CODE 6210-01-F

Prairieland Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 9, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Prairieland Bancorp, Inc., Bushnell, Illinois; to engage in tax planning and preparation including accounting and recordkeeping necessary to provide information for tax planning and preparation pursuant to § 225.25(b)(21) of the Board's Regulation Y. **Comments on this application must be received by October 2, 1992.**

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire SaveTrust Federal Savings Bank, Dyersburg, Tennessee, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

2. Union Planters Corporation, Memphis, Tennessee; to acquire Security Trust Federal Savings and Loan Association, Knoxville, Tennessee, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22759 Filed 9-18-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Reestablishment—Prevention Centers Grant Review Committee

Pursuant to Federal Advisory Committee Act, 5 U.S.C. appendix 2, the Centers for Disease Control announces the reestablishment of the following Federal advisory committee by the Secretary of Health and Human Services:

Designation: Prevention Centers Grant Review Committee.

Purpose: The Committee shall provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director, Centers for Disease Control, regarding the scientific merit of

grant applications received from Schools of Public Health, Schools of Medicine, and Schools of Osteopathy relating to the establishment, maintenance, and operation of centers for research and demonstration with respect to health promotion and disease prevention.

Authority for this committee will expire July 25, 1994, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: September 14, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-22752 Filed 9-18-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. October 5, 1992, 8 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 28, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the safety and effectiveness of PAXIL (paroxetine hydrochloric acid (HCl)), new drug application (NDA) 20-031, SmithKline Beecham, for use in the treatment of depression.

Anti-infective Drugs Advisory Committee Subcommittee on Ophthalmic Drugs

Date, time, and place. October 26 and 27, 1992, 8:30 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 26, 1992, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; open committee discussion, October 27, 1992, 8:30 a.m to 11:30 a.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 19, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 26, 1992, the committee will discuss: (1) Elevation in intraocular pressure due to steroids and possible labeling changes for fluoromethalone drug products and (2) NDA 20-258 (Iopidine® (apraclonidine HCl, Alcon Laboratories, Inc.)) for short term treatment of glaucoma. On October 27, 1992, the committee will discuss an efficacy supplement for NDA 19-404 (Ocufen® (flurbiprofen sodium, Allergan Laboratories)) for cystoid macular edema.

Date, time, and place. October 27, 1992, 1 p.m.; and October 28, 1992, 8 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 27, 1992, 1 p.m. to 1:30 p.m., unless public participation does not last that long; open committee discussion, 1:30 p.m. to 4:30 p.m.; open committee discussion, October 28, 1992, 8 a.m. to 1 p.m.; open public hearing, 1 p.m. to 1:30 p.m., unless public participation does not last that long; open committee discussion, 1:30 p.m. to 4 p.m. Adele S. Seifried, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695. Copies of the revised divisional "points to consider" document will be available at the meeting.

General function of the committee. The committee reviews and evaluates available data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 19, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 27, 1992, the Committee will discuss a draft Division of Anti-Infective Drug Products divisional "points to consider" document concerning the need for "two adequate and well-controlled studies" in the clinical development of antimicrobial drug products (agency presentation). This presentation will be a followup to the discussion of this document made during the committee's October 31 and November 1, 1991, meeting. On October 28, 1992, the committee will discuss the need for a specific immunodeficiency (human immunodeficiency virus (HIV)) warning on the carton and package insert for over-the-counter drug products used to treat recurrent vaginal yeast infections.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. October 29, 1992, 8:30 a.m., Conference rms. D & E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Philip A. Corfman, Center for Drug Evaluation and Research (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3510.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 13, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the use of beta-mimetic drugs for tocolysis.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: September 15, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–22747 Filed 9–18–92; 8:45 a.m.]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Revision; *Title of Information Collection:* Information Collection Requirements for Sole Community Home Health Agencies (HHA) at 42 CFR 424.22(b)(2)(f) and (g); *Form Number:* HCFA–R–85; *Use:* These regulations implement the rules for participation of HHAs in Medicare and the establishment and review of plans of treatment for home health services. The regulations also make it easier for certain HHAs to meet certification and plan of treatment requirements; *Frequency:* On occasion; *Respondents:* Individuals/households and small businesses/organizations; *Estimated Number of Responses:* 20; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 40.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Physician/Supplier Overpayment Report, Medicare; *Form Number:* HCFA–496; *Use:* This report is used to obtain physician/supplier overpayment information from Medicare carriers to verify that they are taking prompt and aggressive action to recover such overpayments in accordance with applicable law and regulations; *Frequency:* On occasion; *Respondents:* Non-profit institutions and businesses/other for profit; *Estimated Number of Responses:* 33,060; *Average Hours per Response:* .025; *Total Estimated Burden Hours:* 827.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Physician or Supplier Agreement; *Form Numbers:* HCFA–460 and 463; *Use:* These forms require all physicians and suppliers to select or decline participation in Medicare. These two groupings are the basis for updating fee schedules and an annual publication of a directory of participating physicians and suppliers. Those physicians/suppliers choosing to participate in Medicare agree to accept reimbursement on a fee basis. The forms are completed

only by new physicians and suppliers; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 47,854; *Average Hours per Response:* .17; *Total Estimated Burden Hours:* 8,135.

4. *Type of Request:* Revision; *Title of Information Collection:* medicare Conditions of Participation for Rural Health Clinics; *Form Number:* HCFA–R–38; *Use:* These information collection requirements are necessary to determine the rural health clinics' compliance with health and safety provisions. Respondents are rural health clinics participating in the Medicare program; *Frequency:* Not applicable; *Respondents:* Businesses/other for profit and non-profit institutions; *Estimated Number of Responses:* Not applicable; *Average Hours per Response:* Not applicable; *Total Estimated Burden Hours:* 2,082 (recordkeeping).

5. *Type of Request:* Reinstatement; *Title of Information Collection:* Information on Medicare Provider Refunds; *Form Number:* HCFA–9049; *Use:* When a Medicare claim is denied and then paid as a result of a reconsideration, there is a possibility that the provider has already been paid by the beneficiary. These questions on provider refunds will be used on the intermediary forms to verify that the provider has refunded the beneficiary's money; *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses or organizations; *Estimated Number of Responses:* 3,851; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 963.

6. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, and 405.252—Conditions of Participation for Comprehensive Outpatient Rehabilitation Facilities (CORFs); *Form Number:* HCFA–R–55; *Use:* These information collection requirements are needed to determine compliance with Federal conditions of participation in order for a CORF to participate in the Medicare/Medicaid programs; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 506; *Average Hours per Response:* 1.625; *Total Estimated Burden Hours:* 822 (reporting) and 119,966 (recordkeeping) for a total of 120,788.

7. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in 42 CFR 435.940—435.965, Medicaid Income and Eligibility Verification System (IEVS); *Form Number:* HCFA–R–74; *Use:* Medicaid State Agencies and other Federally-funded welfare agencies are required to request income and resource data from certain Federal agencies, State wage information collection agencies, and State unemployment compensation agencies through an IEVS. This system helps to ensure that only eligible individuals receive benefits; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 54; *Average Hours per Response:* 80; *Total Estimated Burden Hours:* 4,320 (reporting) and 102,990 (recordkeeping) for a total of 107,310 hours.

8. *Type of Request:* Revision; *Title of Information Collection:* Integrated Review Schedule—medicaid; *Form Number: HCFA–301; Use:* State Agencies are required to perform quality control reviews for the Medicaid program. The review schedule serves as the comprehensive data entry form for all quality control reviews in the Aid for Families with Dependent Children (AFDC) Food Stamps, and Medicaid programs; *Frequency:* Daily; *Respondents:* State/local government agencies; *Estimated Number of Responses:* 102,192; *Average Hours per Response:* .65 (MAO) and .15 (AFDC); *Total Estimated Burden Hours:* 30,569 (reporting) and 20,374 (recordkeeping) for a total of 50,943.

9. *Type of Request:* Reinstatement; *Title of Information Collection:* Provider Overpayment Report, medicare; *Form Number:* HCFA–481; *Use:* This report is completed daily by Medicare intermediaries and submitted to HCFA. It lists provider overpayment information and shows whether or not an intermediary is taking prompt and aggressive action to recover such overpayments in accordance with applicable law and regulations; *Frequency:* Daily; *Respondents:* Non-profit institutions; *Estimated Number of Responses:* 33,000; *Average Hours per Response:* .1; *Total Estimated Burden Hours:* 3,300.

10. *Type of Request:* Reinstatement; *Title of Information Collection:* Financial Statement of Debtor—Medicare; *Form Number:* HCFA–379; *Use:* This form collects financial information which is needed to evaluate requests from physicians/suppliers to pay indebtedness under an extended repayment schedule, or to compromise a debt for less than the full amount; *Frequency:* On occasion; *Respondents:* Individuals/households, businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* 500; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 1,000.

11. *Type of Request:* Extension; *Title of Information Collection:* Negative Case Action (NCA) Review Schedule/Action Summary Tables (Medicaid Eligibility Quality Control); *Form Number:* HCFA–6401; *Use:* HCFA uses the NCA review information to establish error rates by States and the Nation. The error rates are analyzed to detect trends and causes of high or low error rates. Results of NCA reviews are used by States to plan corrective actions to assure accurate determinations and timely and adequate notice of denials; *Frequency:* Semi-annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 8,600; *Average Hours per Response:* .755; *Total Estimated Burden Hours:* 6,493 (reporting) and 860 (recordkeeping) for a total of 7,353 hours.

12. *Type of Request:* New; *Title of Information Collection:* Outpatient Resource Costing Study, Data Collection of Providers of Outpatient Services; *Form Number:* HCFA–R–17; *Use:* The proposed collection is to provide data on the resource use and cost for a range of outpatient services provided across settings, i.e., hospital outpatient departments, ambulatory surgery centers and physician offices; *Frequency:* One-time; *Respondents:* Business/other for profit, non-profit institutions, and small businesses or organizations; *Estimated Number of Responses:* 144; *Average Hours per Response:* 10.667; *Total Estimated Burden Hours:* 1,536.

13. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicaid—Intermediate Care Facility for the Mentally Retarded (ICF/MR) or Persons with Related Conditions Survey Report Form; *Form Number:* HCFA–3070G, H, I; *Use:* In order to participate in the Medicaid program as an ICF/MR, providers must meet Federal standards. The survey report form is used to record providers' compliance with the individual standards and report it to the Federal government; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 6,318; *Average Hours per Response:* 3; *Total Estimated Burden Hours:* 18,954.

14. *Type of Request:* Revision; *Title of Information Collection:* Installment Agreement of Beneficiary Refund of Overpayment HCFA-Pub. 13–3, Section 3711.9 and HCFA Pub. 14–3, Section 7120—Medicare; *Form Number:* HCFA–9005; *Use:* When a beneficiary is overpaid the carrier advises the beneficiary of the error and requests a refund. If the beneficiary is unable to refund the full amount, information is collected for an installment agreement; *Frequency:* On occasion; *Respondents:*

Individuals/households and non-profit institutions; *Estimated Number of Responses:* 3,990; *Average Hours per Response:* .16; *Total Estimated Burden Hours:* 638.

15. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in HSQ–108–F. PRO Assumption of Responsibilities; *Form Number:* HCFA–R–71; *Use;* These requirements are intended to ensure a smooth and efficient start to PRO review. This rule establishes the review functions to be performed by the PRO and outlines the relationships among PROs, Medicare fiscal intermediaries and carriers, providers, practitioners, and beneficiaries; *Frequency:* On occasion; *Respondents:* Businesses/others for profit and small businesses/organizations; *Estimated Number of Responses:* 214,091; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 428,182 (reporting) and 53 (recordkeeping) for a total of 428,235.

16. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Contractor Administrative Budget and Cost Reporting System Forms; *Form Numbers:* HCFA–1523, 1523A–E, 1524, 1524A–E, 2580, 3258, 3259; *Use:* These forms are multi-use financial management forms completed by Medicare intermediaries and carriers. HCFA uses the information to reimburse the intermediaries and carriers for administrative costs and to prepare the budget for the upcoming year; *Frequency:* Annually/Quarterly/Monthly; *Respondents:* Businesses/other for profit and non-profit institutions; *Estimated Number of Responses:* 1,462; *Average Hours per Response:* 48.14; *Total Estimated Burden Hours:* 70,384.

17. *Type of Request:* Reinstatement; *Title of Information Collection:* Fire Safety Survey Report Forms; *Form Numbers:* HCFA–2786A–D, F–H, J–M, P, Q; *Use:* These survey forms are used by the State agency to record data collected in order to determine compliance with individual conditions during fire safety surveys and report it to the Federal government; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 20,637; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 20,637.

18. *Type of Request:* Reinstatement; *Title of Information Collection:* Medical Records Review Under Prospective Payment System (PPS); *Form Number:* HCFA–R–50; *Use:* Peer Review Organizations are authorized to conduct medical review under the PPS. In order to conduct medical review activities we depend upon the hospitals to make available specific records. The sole use of the records is for purpose of meeting the medical review requirements of Medicare program legislation; *Frequency:* On occasion; *Respondents:* Businesses/others for profit and small business/organizations; *Estimated Number of Responses:* 1,239,514; *Average Hours per Response:* .03; *Total Estimated Burden Hours:* 37,186.

19. *Type of Request:* New; *Title of Information Collection:* Qualified Medicare Beneficiary (QMB) Supplement to the Medicare Current Beneficiary Survey (MCBS), Round 5; *Form Number:* HCFA–R–19; *Use:* The QMB supplement will collect information on the QMB program experience, general sources of information of the low-income elderly, sources of information about Medicare, and level of social isolation. The sample population will be noninstitutionalized elderly for purposes of meeting the medical review requirements of Medicare program legislation; *Frequency:* One-time; *Respondents:* Individuals/households; *Estimated Number of Responses:* 1,400; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 350.

Additional Information or Comments: Call the Reports Clearance Office on 410–966–6312 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: September 14, 1992.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 92–22771 Filed 9–18–92; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Program Announcement and Proposed Funding Priorities and Special Consideration for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration (HRSA) announces that applications for Fiscal Year (FY) 1993 Grants for Residency Training in General Internal Medicine and General Pediatrics are being accepted under the authority of section 784, title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607. Comments are invited on the proposed funding priorities and special consideration.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. The Administration's budget request for FY 1993 does not include funding for this program. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1991, HRSA reviewed 61 applications for Grants for Residency Training in General Internal Medicine and General Pediatrics. Of those applications, 64 percent were approved and 36 percent were not recommended for further consideration. Thirty-one projects or 51 percent of the applications, were funded.

In FY 1990, HRSA reviewed 81 applications. Of those applications, 70 percent were approved and 30 percent were not recommended for further consideration. Fifty-two projects, or 64 percent of the applications, were funded.

Purpose

Section 784 authorizes the award of grants for planning, developing and operating approved residency training programs which emphasize the training of residents for the practice of general internal medicine or general pediatrics. In addition, section 784 authorizes assistance in meeting the cost of supporting residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics. A separate grant program is in effect for the faculty development component of this provision.

Eligible applicants are accredited schools of medicine and osteopathic medicine, public and private nonprofit hospitals, or other public or private nonprofit entities.

To receive support, programs must meet the requirements of the final

regulations as specified in 42 CFR part 57, subpart FF.

The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The grant program for Residency Training in General Internal Medicine and General Pediatrics is related to the priority area of "Clinical Preventive Services."

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The degree to which the proposed project adequately provides for the project requirements set forth in the regulations;

(2) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

(3) The qualifications of the proposed staff and faculty; and

(4) The potential of the project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications.

2. Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Established Funding Preference

Part I of the following funding preference was established in FY 1990 dated January 30, 1990, (55 FR 3108) after public comment and is being continued in FY 1993. Part (2) is new. It is being added to focus support to programs with good records of graduates choosing generalist careers. Part (3) is also new and is being added to emphasize the importance of providing primary care residents with training in the care of patients with common health problems associated with other specialties and subspecialties.

Funding Preference will be awarded to applicants that:

(1) Demonstrate continuity of care experiences that meet the following criteria: Each resident must serve a panel of patients and/or families who recognize him or her as their provider of longitudinal and comprehensive (including preventive and psychosocial) health care. This continuity experience must be scheduled principally in ambulatory care settings described in Project Requirement #9 in the Program Guide. A resident's time in these settings must: (a) Comprise at least 10 percent of his or her total training time (excluding vacation time) during each year of the program (i.e., at least one half-day per week); (b) comprise at least 20 percent of his or her training time (excluding vacation time) for the entire residency training period; *and* (c) be scheduled in at least 9 months of each year of training; AND

(2)(a) For the previous 3 year period (academic years 1989-90-1991-92), have an average of 20 percent or less of their primary care (general internal medicine/general pediatrics) residency track graduates (PGY3), or 30 percent or less of their total graduates (including primary care track graduates) electing fourth-year (PGY4) subspecialty training; OR

(b) In the most recently completed academic year (1991-92), have 40 percent or less of their total graduates (including primary care track graduates) electing subspecialty training AND have a decrease since academic year 1988-89 in the percentage of total graduates electing fourth-year subspecialty training of at least 15 percentage points; AND

(3) Demonstrate goals, learning objectives and curricular elements to provide residents with primary care training in the management of common problems in the fields of dermatology, orthopedics, gynecology, otolaryngology, ophthalmology, preventive medicine, occupational medicine, (general internal medicine only), psychiatry, emergency medicine and epidemiology.

Applicants that have not received a grant award from this program during the last two years and therefore, could not reasonably meet the outcome criteria, can receive this funding preference by proposing a program in which all internal medicine or pediatrics residents are trained in accordance with the continuity of care and other curricular provisions cited in the preference.

Established Funding Priority

The following funding priority was established in FY 1992 dated April 30, 1992 (57 FR 18520) after public comment and is being continued in FY 1993.

Community—Oriented Primary Care Educational Activities

A funding priority will be given to applications that demonstrate that curricular time and educational offerings will be devoted to demonstrating and achieving better preventive/primary care services for underserved communities, areas or populations.

Proposed Funding Priorities for FY 1993

In fiscal year 1993, the following funding priorities are proposed:

1. Educational Linkages to Medically Underserved Communities

A funding priority will be given to:

Applications that propose to provide educational experiences to demonstrate to residents the provision of primary care services to underserved populations. These experiences must include substantial training involving one or more of the following entities:

(A) Underserved Geographical Area

Inpatient or outpatient health care facilities located in a Health Professional Shortage Area (HPSA), PHS Act, section 332, or in a Medically Underserved Area (MUA) designated under provisions of PHS Act, section 330(b)(3);

(B) Facilities Whose Purpose is Care of Underserved

Community Health Centers currently supported under PHS Act, section 330, Medically Underserved Population, defined under PHS Act, section 330 (a)(3), Migrant Health Centers currently supported under PHS Act, section 329, Homeless Health Centers supported

under PHS Act, section 340, facilities that have formal arrangements to provide primary health services to public housing communities, hospitals or other health care facilities of the Indian Health Service and/or facilities operated by State or local health departments;

(C) Underserved Patient Populations

Facilities which do not qualify under (A) and (B) above can quality for up to a full priority score based on the percentage of their patient visits/hospital admissions that are uncompensated or are compensated under the State Medicaid Program or local programs designed to reimburse health providers for services to indigent populations.

This priority is designed to continue HRSA's overall strategy to direct services to those most in need.

2. Minorities/Low Income Populations

Programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating residents from those minority or low-income populations identified as at risk of poor health outcomes.

This priority is consistent with a HRSA strategy to increase the number of health professionals from minority and other at risk populations, to assure equal access to health professions education for all population groups, and ultimately, to provide a greater volume of health care in underserved areas.

3. HIV/AIDS/Substance Abuse Activities

Applications that: (1) Document collaboration with a Regional HIV/AIDS Educational Training Center and have implemented, or plan to implement no later than academic year 1993–94, a comprehensive training experience for all residents which includes counseling in the prevention of HIV infection, direct patient care and clinical management of HIV-infected individuals; and (2) provide all residents with an organized clinical experience in the diagnosis, counseling, treatment and referral of substance abuser patients/families or present plans for the implementation of such a curriculum no later than academic year 1993–94.

Health professionals are required to provide a wide range of services for HIV related diseases. This priority is designed to emphasize community coordination and service integration.

4. Clinical Preventive Services

Applications that demonstrate sufficient curricular time and offerings devoted to teaching all residents about the screening, counseling and immunization services recommended by the U.S. Preventive Services Task Force.

This primary care training focus is important for physicians who will serve in underserved areas.

Proposed Special Consideration

Special consideration will be given to the extent to which applicants enroll and graduate trainees from underserved areas.

This special consideration is intended to recognize programs that enroll and graduate trainees from underserved areas because health professionals who come from underserved areas are more likely to return there upon completion of training to provide needed health services.

Additional Information

Interested persons are invited to comment on the proposed funding priorities and special consideration. All comments received on or after October 21, 1992 will be considered before the final funding priorities and special consideration are established. No funds will be allocated or final selections made until a final notice is published stating whether the final priorities and special consideration will be applied.

Written comments should be addressed to:

Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–25, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to:

Mrs. Donna Nash, Grants Management Specialist (D–28), Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 8C–26, Rockville, Maryland 20857, Telephone (301) 443–6960.

Completed applications should be returned to the Grants Management Office at the above address.

If additional programmatic information is needed, please contact:

Ms. Sara Kearney, Residency Training Section, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–04, Rockville, Maryland 20857, Telephone (301) 443–6820.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

Public Law 100–607, section 633(a), requires that for grants issued under sections 780, 784, 785 and 786 for FY 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation. Should a second cycle be necessary, the application deadline date will be approximately 6 months from the first deadline.

The deadline date for receipt of applications is October 23, 1992. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.884 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: August 11, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–22697 Filed 9–18–92; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Library of Medicine; Notice of a Special Meeting of the Biomedical Library Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a special meeting of the Biomedical Library Review Committee on November 12–13, 1992, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on November 12 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting on November 11 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m. and on November 12 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health)

Dated: September 16, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–22831 Filed 9–18–92; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

President's Council on Physical Fitness and Sports

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice of Meeting—Change in Date.

This notice sets forth the change in date of the forthcoming meeting of the President's Council on Physical Fitness and Sports.

NEW DATE: September 26, 1992—8:30 a.m.–4 p.m.

ADDRESS: Ritz Carlton Buckhead, 3434 Peachtree Rd., NE, Atlanta, Georgia 30326.

FOR FURTHER INFORMATION CONTACT: John A. Butterfield, Executive Director, President's Council on Physical Fitness and Sports, 701 Pennsylvania Ave., NW. Suite 250, Washington, D.C. 20004, (202) 272–3421.

Dated: September 16, 1992

John A. Butterfield,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 92–22775 Filed 9–18–92; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Withdrawal of Unilateral Determination of Eligibility; Battle of Brandy Station

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of withdrawal.

SUMMARY: The Department of the Interior is issuing this notice to advise the public that the unilateral determination of eligibility for the National Register of Historic Places for a certain area of Culpeper County, Virginia, related to the Battle of Brandy Station, initially issued on February 28, 1991, is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: Knute Knudson, Deputy Chief of Staff, 1849 C Street, NW., Washington, DC 20240, 202–208–7356.

SUPPLEMENTARY INFORMATION: The Department of the Interior is issuing this notice to advise the public that the unilateral determination of eligibility for the National Register of Historic Places for a certain area of Culpeper County, Virginia, related to the Battle of Brandy Station, initially issued on February 28, 1991, is hereby withdrawn. Pursuant to 36 CFR 63.4(c), a determination was made that an area of land located in Culpeper County, Virginia, considered to be related to the Battle of Brandy Station, is eligible for listing in the National Register of Historic Places pursuant to criteria contained in 36 CFR part 60. This determination was a discretionary action made in order to assist in the planning of potential Federal and other undertakings which may affect historically significant property in the area. The determination was not made in the course of planning for a particular Federal undertaking, the usual process through which determinations of eligibility for the National Register are made in such circumstances.

Although the purpose of the unilateral determination was to foster advance consideration in the planning of potential Federal and other undertakings, the determination has been perceived by many as an unnecessary and untimely action which affects local planning processes in the absence of a specific Federal need. In consideration of these concerns and in order to permit a National Register determination of eligibility for property related to the Battle of Brandy Station to be made in the usual course of Federal planning under 36 CFR part 800, 36 CFR part 60, and related authorities, the February 28, 1991, unilateral determination of eligibility for property related to the Battle of Brandy Station is withdrawn. This action, however, does not necessarily indicate that all or part of the area previously determined eligible does not meet applicable criteria for property eligible for listing in the National Register, only that such a determination will now be made in the course of the planning of a particular Federal undertaking or through other usual procedures. In this connection, it is noted that the Commonwealth of Virginia is presently reviewing the matter of property of historic significance related to the Battle of Brandy Station. The results of such review should be available for consideration by appropriate authorities when a further determination of eligibility in this regard is required.

Dated: September 15, 1992.

Manuel Lujan, Jr.

Secretary of the Interior.

[FR Doc. 92–22696 Filed 9–18–92; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Land Management Alaska

[AK–964–4230–15; F–14954–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Olgoonik Corporation, Inc. for 6007.00 acres. The lands involved are in the vicinity of Wainwright, Alaska.

within T. 15 N., R. 30 W., Umiat Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Barrow Sun. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 21, 1992, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Carolyn A. Bailey,

Lead Land Law Examiner, Branch of Doyon/Northwest Adjudication.

[FR Doc. 92–22695 Filed 9–18–92; 8:45 am]

BILLING CODE 4310–JA–M#

[CA 5440–10–ZBAF, CA–30582]

California; Realty Action

ACTION: Proposed Noncompetitive Sale of Lands.

SUMMARY: The following land in San Bernardino County, California is being considered for disposal by direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976, (90 Stat. 2750, 43 U.S.C. 1713 and 1719). The parcels are proposed for direct sale to the State of California for siting a low level radioactive waste disposal facility.

ADDRESSES: Bureau of Land Management, California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Doug Romoli, California Desert District Office, (714) 697–5237.

SUPPLEMENTARY INFORMATION: The lands will be sold at no less than the appraised fair market value. The sale is contingent upon all requirements of sections 203 and 209 of FLPMA being met.

T. 9 N., R 19 E., SBM
Sec. 26: SW1/4SW1/4
Sec. 27: S1/2S1/2
Sec. 34: All
Sec. 35: W1/2W1/2

containing 1,000.00 acres.

All mineral interests will be conveyed with the surface estate. The United States mineral interests offered for conveyance have no known value. At the time of the sale, the State of California will be required to deposit a $50.00 nonrefundable application fee for conveyance of the mineral estate.

The public land when conveyed, will be subject to the following terms and conditions:

A. Reservation to the United States for a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

B. Third Party Rights. Public land conveyed will be subject to all valid existing rights including the following:

A right-of-way granted to Metropolitan Water District of Southern California for a power transmission line and road pursuant to the Act of December 21, 1928; Serial No. LA–052052.

As provided in 43 CFR 2711.1–2, the publication of this notice in the **Federal Register** shall segregate, subject to valid existing rights, the public land described herein from all other forms of appropriation under the public land laws, including the mining laws and the mineral leasing laws. The segregative effect will terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of this publication, whichever occurs first.

Additional information concerning these lands and the proposed direct sale to the State of California may be obtained from the address given above. For a period of 45 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments, suggestions, or objections in connection with the proposed direct sale may present their views in writing to the District Manager at the above address.

Dated: September 14, 1992.

Jean Rivers-Council,

Acting District Manager.

[FR Doc. 92–22619 Filed 9–18–92; 8:45 am]

BILLING CODE 4310–40–M

[NV–930–4214–10; N–37171]

Amendment to Withdrawal Application and Opportunity for Public Meeting; Nevada

September 8, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Navy filed an application to amend its Master Land withdrawal proposal for 181,323 acres to include an additional 7,750 acres. The additional lands are being proposed for withdrawal for public safety purposes because the 7,750 acres contain unexploded ordnance. Approximately one-half of the 7,750 acres (3,040 acres) is covered by an overlapping Bureau of Reclamation withdrawal. This notice provides an opportunity for a public meeting and public comment on the amended potion of the application.

DATES: Comments or requests for a public meeting should be received on or before December 21, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–785–6526.

SUPPLEMENTARY INFORMATION: On July 31, 1992, the Department of the Navy filed an application to amend its existing Master Land withdrawal application (N–37171) to include and withdraw the following described 7,750 acres from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 16 N., R. 28 E.,
Sec. 3, NW¼ and W½NE¼;
Sec. 4, N½.
T. 17 N., R. 28 E.,
Sec. 22, W½, SE¼ and W½NE¼;
Sec. 27, 33, and 34.
T. 16 N., R. 30 E.,
Sec. 32, SE¼;
Sec. 33, S½;
Sec. 34, S½;
Sec. 35, S½;
T. 16 N., R. 33 E.,
Sec. 2, Lot 2, SW¼NE¼, and S½NW¼, those portions south of U.S. Highway 50;
Sec. 3, S½NE¼, that portion south of U.S. Highway 50.
T. 15 N., R. 34 E.,
Sec. 4, W½W½;
Sec. 9, W½W½;
Sec. 16, W½W½;
Sec. 21, W½NW¼ and NW¼SW¼.
T. 16 N., R. 34 E.,
Sec. 4, W½, that portion south of U.S. Highway 50;
Sec. 5, that portion south of U.S. Highway 50;
Sec. 8, E½, E½W½, and E½E½W½W½, excepting therefrom any patented mining claims;
Sec. 9, W½, excepting therefrom any patented mining claims;
Sec. 16, W½, excepting therefrom any patented mining claims;

Sec. 17, E½NE¼, NW¼NW¼, N½NW¼, NE¼SW¼, S½SW¼, and N½SE¼, excepting therefrom any previoulsy withdrawn Navy lands and any patented mining claims.
Sec. 21, E½W½ and W½SW¼, excepting therefrom any patented mining claims;
Sec. 33, W½;

The area described contains 7,750 acres in Churchill County.

The additional lands are being proposed for withdrawal from settlement, sale, location, and entry under the general land laws, including the mining laws, subject to valid existing rights, for public safety purposes because the area contains unexploded ordnance.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed amendment may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed amendment.

All interested persons who desire a public meeting for the purpose of being heard on the proposed amendment must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The amendment will be processed as part of the original application in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the 7,750 acres will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. No temporary uses will be permitted during this segregative period since the land contains unexploded ordnance.

The temporary segregation of the land shall not effect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Department of the Navy.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 92-22693 Filed 9-18-92; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-0066), Washington, DC 20503, telephone 202-395-7340.

Title: Marketing, Tagging and Reporting Regulations for Walrus, Polar Bear and Sea Otter.

OMB Approval Number: 1018-0066.

Abstract: The Marine Mammal Protection Act allows Alaska natives living along the coast to harvest polar bear, sea otter, and walrus for subsistence and handicraft purposes. Mandatory marking, tagging and reporting regulations provide information on the level of harvest and the health of these populations, thus assisting the Service in making management decisions related to these species.

Service Form Number(s): R7-50, R7-51 and R7-52.

Frequency: On Occasion.

Description of Respondents: Individuals and households and Federal personnel.

Estimated Completion Time: 15 minutes (0.25 hours).

Annual Responses: 2,000×1.2375 responses per respondent.

Annual Burden Hours: 619.

Service Clearance Officer: James E. Pinkerton, 703-358-1943 Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: August 28, 1992.

Gary Edwards,

Assistant Director, Fisheries.

[FR Doc. 92-22725 Filed 9-18-92; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-33 (Sub-No. 72)]

Union Pacific Railroad Company—Abandonment—in Gilliam County, OR (Condon Branch); Findings

The Commission has found that the public convenience and necessity permit Union Pacific Railroad Company to abandon its 33.824-mile Condon Branch extending from milepost 11.00 near Shutler to the end of the line at milepost 44.824 near Condon, in Gilliam County, OR.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Section of Legal Counsel, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: September 3, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and McDonald. Commissioner Simmons concurred in the result.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22799 Filed 9-18-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Cambridge Isotope Lab

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 24, 1992, Cambridge Isotope Lab, 20 Commerce Way, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of

the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Codeine (9041)	II
Acetyldihydrocodeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Morphine (9300)	II

The firm plans to manufacture small quantities of the above listed substances for research and biochemical purposes only.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47. Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: September 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22796 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on August 7, 1992, Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance 2,5-Dimethoxyamphetamine (7396).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: September 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22794 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a registration under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with §§ 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 2, 1992, Diagnostic Products Corporation, 5700 W. 96th Street, Los Angeles, California 90045, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Codeine (9050)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import small quantities of the above substances for diagnostic or analytical purposes.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: September 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22792 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on August 7, 1992, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146-7, State Road 2, Mayaguez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene, bulk (non-dosage forms) (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR),

and must be filed no later than 30 days from publication.

Dated: September 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22793 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

Importer of Controlled Substances; Minn-Dak Growers Ltd.

Notice dated April 27, 1992, and published in the **Federal Register** on May 1, 1992, (57 FR 18909), Minn-Dak Growers, Limited, Highway 81 North, P.O. Box 1278, Grand Forks, North Dakota 58208-1276, made application to the Drug Enforcement Administration to be.registered as an importer of marijuana (7360), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: September 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22795 Filed 9-18-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Indian and Native American Employment and Training Programs; Final Designation Procedures for Grantees for Program Years 1993-94

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of final designation procedures for grantees.

SUMMARY: This document contains final procedures by which the Department of Labor (DOL) will designate potential grantees for Indian and Native American Employment and Training Programs under the Job Training Partnership Act (JTPA). The designations will be for JTPA Program Years (PYs) 1993 and 1994 (July 1, 1993 through June 30, 1995). This notice provides necessary information to prospective grant applicants to enable them to submit appropriate requests for designation.

DATES: Optional Advance Notices of Intent must be postmarked no later than October 6, 1992. Final Notices of Intent must be postmarked no later than January 1, 1993.

ADDRESSES: Send an original and two copies of the Advance and Final Notices of Intent to Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: ANOI/NOI Desk.

SUPPLEMENTARY INFORMATION: Proposed designation procedures of Indian and Native American Employment and Training Programs under Section 401 of the Job Training Partnership Act (JTPA) were published in the **Federal Register** on July 28, 1992 (57 FR 33368), for the purpose of soliciting public comment. No comments were received from the general public. However, two organizations which have representation on the Indian and Native American Programs' Advisory Committee were provided an advance copy of the proposed designation procedures on June 2, 1992, in San Diego, California, and did submit comments.

Both comments related to section I, General Designation Principles, in particular subsections 5 and 6.

One commenter pointed out that subsection 5 was misleading and thought it included tribal organizations applying for reservation areas. The Department of Labor (DOL or Department) has restructured this section to clarify that tribes applying for their own reservations do not have to provide letters of support from Native American-controlled organizations. However, tribal entities applying for off-reservation areas, both incumbent and non-incumbent applicants, must comply with this requirement.

Both organizations stated that the amount of documentation required for this section was an unnecessary burden on applicants. The Department has restructured the Notice to make a minimal amount of documentation mandatory and provides for optional submittal of some supporting documentation.

One commenter expressed concern that this process would allow organizations with no real Indian and Native American support to have undue influence on the designation process. The commenter also felt that letters of support from former program participants and individuals from the Indian and Native American community would be better indicators of community support.

The Department acknowledges that individual support is an indicator of community support, but it is difficult to verify. Since local support is a significant factor in the competitive selection of grantees, the Department will continue to require letters of community support from Indian and Native American-controlled organizations. The Department has revised the language to place the burden of proof for community support on the applicant organization.

Job Training Partnership Act: Indian and Native American Programs; Final Designation Procedures for Program Years 1993-94

Table of Contents

Introduction: Scope and Purpose of Notice
I. General Designation Principles
II. Advance Notice of Intent
III. Notice of Intent
IV. Preferential Hierarchy for Determining Designations
V. Use of Panel Review Procedure
VI. Notification of Designation/Nondesignation
VII. Special Designation Situations
VIII. Designation Process Glossary

Introduction: Scope and Purpose of Notice

Section 401 of the Job Training Partnership Act (JTPA) authorizes programs to serve the employment and training needs of Indians and Native Americans.

Requirements for these programs are set forth in the JTPA and in the regulations at 20 CFR part 632. The specific organization eligibility and application requirements for designation are set forth at 20 CFR 632.10 and 632.11. Pursuant to these requirements, the Department of Labor (DOL) selects entities for funding under section 401. It designates such entities as potential Native American grantees which will be awarded grant funds contingent upon all other grant award requirements being met. This notice describes how DOL will designate potential grantees who may apply for grants for Program Years 1993 and 1994. A designated entity may apply for a grant for PY 1993 and for a grant for PY 1994 without further competition.

The designation process has two parts. The Advance Notice of Intent (see part II, below) is optional although strongly recommended. The final Notice of Intent (see part III, below) is mandatory for all applicants. Any organization interested in being designated as a Native American

grantee should be aware of and comply with the procedures in these parts.

The amount of JTPA section 401 funds to be awarded to designated Native American grantees is determined under procedures described at 20 CFR 632.171 and not through this designation process. The grant application process is described at 20 CFR 632.18 and 632.20.

I. General Designation Principles

Based on JTPA and applicable regulations, the following general principles are intrinsic to the designation process:

(1) All applicants for designation shall comply with the requirements found at 20 CFR part 632, Subpart B, regardless of their apparent standing in the preferential hierarchy (see part IV, Preferential Hierarchy For Determining Designations, below). The basic eligibility, application and designation requirements are found in 20 CFR part 632, Subpart B.

(2) The nature of this program is such that Indians and Native Americans in an area are entitled to program services and are best served by a responsible organization directly representing them and designated pursuant to the applicable regulations. The JTPA and the governing regulations give clear preference to Native American-controlled organizations. That preference is the basis for the steps which will be followed in designating grantees.

(3) A State or federally recognized tribe, band or group on its reservation is given absolute preference over any other organization if it has the capability to administer the program and meets all regulatory requirements. This preference applies only to the area within the reservation boundaries. Such "reservation" organization which may have its service area given to another organization will be given a future opportunity to reestablish itself as the "preference" grantee.

In the event that such a tribe, band or group (including an Alaskan Native entity) is not designated to serve its reservation or geographic service area, the DOL will consult with the governing body of such entities when designating alternative service deliverers, as provided at 20 CFR 632.10(e). Such consultation may be accomplished in writing, in person or by telephone, as time and circumstances permit. When it is necessary to select alternative service deliverers, the Grant Officer will continue to utilize input and recommendations from the Division of Indian and Native American Programs (DINAP).

(4) In designating Native American grantees for off-reservation areas, DOL will provide preference to Indian and Native American-controlled organizations as described in 20 CFR 632.10(f) and as further clarified in part VIII (1) Indian or Native American-Controlled Organization of this notice. As noted in (3) above, when vacancies occur, the Grant Officer will continue to utilize input and recommendations from DINAP when designating alternative service deliverers.

(5) Incumbent and non-incumbent applicants must submit evidence of significant support from other Native American-controlled organizations within the communities (geographic service areas) which they are currently serving or requesting to serve. The required evidence is an attestation from the Native American-controlled organization(s) that it supports the applicant and considers it to be an organization that is representative of and can provide a high quality of section 401 JTPA services to eligible persons residing in the requested geographic service area. Incumbent and non-incumbent State and Federally recognized tribes need not submit such evidence regarding their own reservations. However, such entities are required to provide such evidence for any area which they wish to serve beyond their reservation boundaries.

In addition to the above required evidence of support, all such applicants are encouraged, but not required, to submit verifiable evidence of support from other Native American-controlled organizations (see definition in part VIII (1) of this notice) which should include information about the supporting organization such as:

(a) Evidence of organizational type, e.g., copy of articles of incorporation or charter, etc.
(b) Evidence of Indian and Native American control.
(c) Current Indian and Native American membership.
(d) Number of members served in the requested service area.

(6) The Grant Officer will make the designations using a two-part process: (a) Those applicants described in part IV (1) of the Preferential Hierarchy For Determining Designations will be designated on a noncompetitive basis if all preaward clearances, responsibility reviews, and regulatory requirements are met. (b) All applicants described in part IV, (2), (3) and (4) of the Preferential Hierarchy For Determining Designations will be considered on a competitive basis for such areas, and only information submitted with the Notice of Intent, as well as preaward clearances, responsibility reviews, and all regulatory requirements will be considered.

(7) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past 18 years under the authority of JTPA Section 401 and its predecessor, section 302 of the repealed Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority to preserve the continuity of such services and to prevent the undue fragmentation of existing geographic service areas. Consistent with present regulations and other provisions of this notice, this will include preference for those Native American organizations with an existing capability to delivery employment and training services within an established geographic service area. Such preference will be determined through input and recommendations from the Chief of DOL's Division of Indian and Native American Programs (DINAP) and the Director of DOL's Office of Special Targeted Programs (OSTP), and through the use of the rating system described in this Notice. Unless a non-incumbent applicant in the same preferential hierarchy as an incumbent applicant grantee can demonstrate that it is significantly superior overall to the incumbent, the incumbent will be designated, if it otherwise meets all of the requirements for redesignation.

(8) In preparing applications for designation, applicants should bear in mind that the purpose of JTPA, as amended, is "to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased education and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation."

II. Advance Notice of Intent

The purpose of the Advance Notice of Intent process is to provide section 401 applicants, prior to the submission of a final Notice of Intent, with information relative to potential competition. While DOL encourages the resolution of competitive requests at the local level prior to final submission, the Advance Notice of Intent process also serves to alert those whose differences cannot be resolved of the need to submit a complete final Notice of Intent.

Although the Advance Notice of Intent process is not mandated by the regulations, participation in the advance process by prospective section 401 applicants is strongly recommended. The Advance Notice of Intent process allows the applicant to identify potential incumbent and non-incumbent competitors, to resolve conflicts if possible and to prepare a final Notice of Intent with advance knowledge of potential competing requests.

It should be emphasized, however, that the Advance Notice of Intent process does not ensure that all potential competitors have been identified. Some applicants may opt not to submit an Advance Notice of Intent; others may change geographic service area requests in the final Notice of Intent. Therefore, as noted above, final submissions should be prepared with these possibilities in mind. Although the regulations permit incumbents to submit no more than a Standard Form 424 Federal Assistance (SF 424) for their existing geographic service areas, this choice may not be in the incumbent's best interests in the event of unanticipated competition.

The SF 424 is not to be used for the advance notification process. As in the PY 1991–1992 designation process, DOL will utilize the Advance Notice of Intent to expedite the identification of potentially competitive applicants.

All organizations interested in being designated as Section 401 grantees should submit an original and two copies of an Advance Notice of Intent. The Advance Notice is to be postmarked no later than 15 days after the date of publication of this **Federal Register** Notice. An organization may submit only one Advance Notice of Intent for any and all areas for which it wants to be considered. The Advance Notice of Intent is to be sent to the Chief, Division of Indian and Native American Programs, at the address cited above.

Complete instructions for the Advance Notice of Intent process will be mailed to all current grantees on or about September 21, 1992. Incumbents will also received a description of their present geographic service area at this time. New applicants may request copies of the Advance Notice of Intent instructions by writing to the Chief, Division of Indian and Native American Programs, at the address cited above.

DOL's first step in the designation process is to determine which areas have more than one potential applicant for designation. For those areas for which more than one organization submits an Advance Notice of Intent, each such organization will be notified of the situation, and will be apprised of the identity of the other organization(s) applying for that area. Such notification will consist of providing affected applicants (including incumbents who have not submitted Advance Notices of Intent) with copies of all Advance Notices of Intent submitted for their requested areas. The notification will occur on or about November 30, 1992. The notification will state that organizations are encouraged to work out any conflicting requests among themselves, and that a final Notice of Intent should be submitted by the required postmark of January 1, 1993, deadline (see part III, Notice of Intent, below).

Under the Advance Notice of Intent process, it is DOL policy that, to the extent possible within the regulations, a geographic service area and the applicant that will operate a section 401 program in that area are to be determined by the Native American community to be served by the program. In the event the Native American community cannot resolve differences, applicants should take special care with their final Notices of Intent to ensure that they are complete and fully responsive to all matters covered by the preferential hierarchy and rating systems discussed in this notice.

Information provided in the Advance Notice of Intent process shall not be considered as a final submission as referenced at 20 CFR 632.11. The Advance Notice of Intent is a procedural mechanism to facilitate the designation process. The regulations do not provide for formal application for designation through the Advance Notice of Intent.

III. Notice of Intent

All applicants must submit an original and two copies of a final Notice of Intent, postmarked no later than January 1, 1993, consistent with the regulations at 20 CFR 632.11. Final Notices of Intent may also be delivered in person not later than the close of business on the first business day of the designation year. Exclusive of charts or graphs and letters of support, the Notice of Intent should not exceed 75 pages of double-space unreduced type.

Final Notices of Intent are to be sent to the Chief, Division of Indian and Native American Programs, (DINAP) at the address cited above.

The regulations permit current grantees requesting their existing geographic service areas to submit an SF 424 in lieu of a complete application. As noted earlier in this notice, current grantees, other than tribes, bands or groups (including Alaskan Native entities) requesting their existing areas, are encouraged to consider submitting a full Notice of Intent even if their geographic service area request has not changed in the event that competition occurs. Tribes, bands and groups (including Alaskan Native entities) should consider submitting a full Notice of Intent if they currently serve areas beyond their reservation boundaries.

Applicants are encouraged to modify the geographic service area requests identified in their Advance Notices of Intent to avoid competition with other applicants. Applicants should not add territory to the geographic service area requests identified in the Advance Notice of Intent. Any organization applying by January 1, 1993, for non-contiguous geographic service areas shall prepare a separate, complete Notice of Intent for each such area unless currently designated for such areas.

It is the DOL's policy that no information affecting the panel review process will be solicited or accepted past the regulatory postmarked or hand delivered deadlines (see part V, Use of Panel Review Procedure, below). All information provided before the deadline must be in writing.

The policy does not preclude the Grant Officer from requesting additional information independent of the panel review process.

IV. Preferential Hierarchy for Determining Designations

In cases in which only one organization is applying for a clearly identified geographic service area and the organization meets the requirements at 20 CFR 632.10(b) and 632.11(d), DOL shall designate the applying organization as the grantee for the area. In cases in which two or more organizations apply for the same area (in whole or in part), DOL will utilize the order of designation preference described in the hierarchy below. The organization which falls into the highest category of preference will be designated, assuming all other requirements are met. The preferential hierarchy is:

(1) Indian tribes, bands of groups on Federal or State reservations for their reservation; Oklahoma Indians only as specified in part VII, Special Designation Situations, below; and Alaskan Native entities only as specified in part VII, Special Designation Situations, below.

(2) Native American-controlled, community-based organizations as defined in part VIII (1) of the glossary in this notice, with significant support from other Native American-controlled

organizations within the service community. This includes tribes applying for geographic service areas other than their own reservations.

When a non-incumbent can demonstrate in its application, by verifiable information, that it is potentially significantly superior overall to the incumbent, a formal competitive process will be utilized which may include a panel review. Such potential will be determined by the consideration of such factors as the following: Completeness of the application and quality of the contents; documentation of past experience; Native American-controlled organizational support; understanding of area training and employment needs and approach to addressing such needs; and the capability of the incumbent. If there is no incumbent, new applicants qualified for this category would compete against each other.

(3) Organizations (private nonprofit or units of State or local government) having a significant Native American advisory process, such as a governing body chaired by a Native American and having a majority membership of Native Americans.

(4) Non-Native American-controlled organizations without a Native American advisory process. In the event such an organization is designated, it must develop a Native American advisory process as a condition for the award of a grant.

The Chief, DINAP, will make determinations regarding hierarchy, geographic service areas, eligibility of new applicants and the timeliness of submissions. He may convene a task force to assist in making such determinations. The role of the task force is that of a technical advisory body.

The Chief, DINAP, will ultimately advise the Grant Officer in reference to which position an organization holds in the hierarchy. Within the regulatory time constraints of the designation process, the Chief, DINAP, will utilize whatever information is available.

The applying organization must supply sufficient information to permit the determination to be made. Organizations must indicate the category which they assume is appropriate and must adequately support that assertion.

V. Use of Panel Review Procedure

A formal competitive process may be utilized under the following circumstances:

(1) The Chief, DINAP, advises that a new applicant qualified for the second category of the hierarchy appears to be potentially significantly superior overall to an incumbent Native American-controlled, community-based organization with significant local Native American community support.

(2) The Chief, DINAP, advises that more than one new applicant is qualified for the second category of the hierarchy, and the incumbent grantee has not reapplied for designation.

(3) The Chief, DINAP, advises that two or more organizations have equal status in the third or fourth categories of the hierarchy, when there are no applicants qualified for the first and second categories.

When competition occurs, the Grant Officer may convene a review panel of Federal Officials to score the information submitted with the Notice of Intent. The purpose of the panel is to evaluate an organization's capability, based on its application, to serve the area in question. The panel will be provided only the information described at 20 CFR 632.11 and submitted with the final Notice of Intent. The panel will not give weight to simple assertions. Any information must be supported by adequate and verifiable documentation, *e.g.*, supporting references must contain the name of the contact person, an address and telephone number.

The factors listed below will be considered in evaluating the capability of the applicant. In developing the Notice of Intent, the applicant should organize his documentation of capability to correspond with these factors.

(1) Operational Capability—40 points. (20 CFR 632.10 and 632.11)

(a) Previous experience in successfully operating an employment and training program serving Indians and Native Americans of a scope comparable to that which the organization would operate if designated—20 points.

(b) Previous experience in operating other human resources development programs serving Indians or Native Americans or coordinating employment and training services with such programs—10 points.

(c) Ability to maintain continuity of services to Indian or Native American participants with those previously provided under JTPA—10 points.

(2) Identification of the training and employment problems and needs in the requested area and approach to addressing such problems and needs—20 points. (20 CFR 632.2)

(3) Planning Process—20 points. (20 CFR 632.11)

(a) Private sector involvement—10 points.

(b) Community support as defined in part VIII (1), Designation Process Glossary, and documentation as provided in part I (5), General Designation Principles—10 points.

(4) Administrative Capability—20 points. (20 CFR 632.11)

(a) Previous experience in administering public funds under DOL or similar administrative requirements—15 points.

(b) Experience of senior management staff to be responsible for DOL grant, if designated—5 points.

VI. Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision giving consideration to the following factors: the review panel's recommendation, in those instances where a panel is convened; input from DINAP, the Office of Special Targeted Programs, the DOL Employment and Training Administration's Office of Grants and Contracts Management and Office of Management Services, and the DOL Office of the Inspector General; and any other available information regarding the organization's financial and operational capability, and responsibility. The Grant Officer's decisions will be provided to all applicants by March 1, 1993, as follows:

(1) Designation Letter

The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the geographic service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographic service area requested in the final Notice of Intent. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or if acceptable to the designee, more than the area requested.

(2) Conditional Designation Letter

Conditional designations will include the nature of the conditions, the actions required to be finally designated and the time frame for such actions to be accomplished.

(3) Nondesignation Letter

Any organization not designated, in whole or in part, for a geographic service area requested will be notified formally of the nondesignation and given the basic reasons for the determination. An applicant for designation that is refused such designation, in whole or in part, may file a Petition for Reconsideration in accordance with 20 CFR 632.13, and subsequently, may appeal the

nondesignation to an administrative law judge under the provisions of 20 CFR part 636.

If an area is not designated for service through the foregoing process, alternative arrangements for service will be made in accordance with 20 CFR 632.12.

VII. Special Designation Situation

(1) Alaskan Native Entities

DOL has established geographic service areas for Alaskan Native employment and training programs based on the following: (a) The boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); (b) the boundaries of major subregional areas where the primary provider of human resource development and related services is an Indian Reorganization Act (IRA)-recognized tribal council; and (c) the boundaries of the one Federal reservation in the State. Within these established geographic service areas, DOL will designate the primary Alaskan Native-controlled human resource development services provider or an entity formally designated by such provider. In the past, these entities have been regional nonprofit corporations, associated corporations established by the regional nonprofit corporation, IRA-recognized tribal councils and the tribal government of the Metlakatla Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 1993 and 1994.

(2) Oklahoma Indians

DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indians to serve portions of the State. Generally, geographic service areas have been designated geographically as countywide areas. In cases in which a significant portion of the land area of an individual county lies within the traditional jurisdiction of more than one tribal government, the service area has been subdivided to a certain extent on the basis of tribal identification information in the most recent Federal Decennial Census of Population. Wherever possible, arrangements mutually satisfactory to grantees in adjoining or overlapping geographic service areas have been honored by DOL. DOL intends to follow these principles in designating Native American grantees in Oklahoma for Program Years 1993 and 1994 to preserve continuity and prevent unnecessary fragmentation.

VIII. Designation Process Glossary

In order to ensure that all interested parties have the same understanding of the process, the following definitions are provided:

(1) Indian or Native American-Controlled Organization

This is defined as any organization with a governing board, more than 50 percent of whose members are Indians or Native Americans. Such an organization can be a tribal government, Native Alaskan or Native Hawaiian entity, consortium, or public or private nonprofit agency. For the purpose of hierarchy determinations, the governing board must have decision making authority for the section 401 program.

(2) Service Area

This is defined as the geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also show the specific population to be served. The service area is defined by the Grant Officer in the formal designation letter. Grantees must ensure that all eligible population members have equitable access to employment and training services within the service area.

(3) Community Support

This is evidence of active participation and/or endorsement from Indian or Native American-controlled organizations within the geographic service area for which designation is requested.

While applications are not precluded from submitting attestations of support from individuals, the business community, State and local government offices, and community organizations that are not Indian or Native American-controlled, they should be aware that such endorsements do not meet DOL's definitional criteria for community support.

Signed at Washington, D.C., this 16th day of September 1992.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Herman E. Narcho,

Acting Chief, Division of Indian and Native American Programs.

James C. DeLuca,

Grant Officer, Office of Grants and Contracts Management, Division of Acquisition and Assistance.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 92-22805 Filed 9-18-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,663]

Compaq Computer Corporation; Houston, TX; Notice of Revised Determination on Reconsideration

On May 1, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Compaq Computer Corporation in Houston, Texas. The notice was published in the **Federal Register** on May 11, 1992 (57 FR 20130).

The Department's denial was based on the fact that company imports of printed circuit boards had not yet commenced. Petitioners were urged to reapply when the subject firm's imports of printed circuit boards occurred.

On reconsideration, the Department noted that the petition was for personal computers produced at Houston.

Findings on reconsideration show that the workers produce desktop, laptop and notebook computers as well as printed circuit boards which are used internally on personal computers produced at Houston. Workers are not separately identifiable by product.

Other findings show that sales and production of personal computers at Houston declined in 1991 compared to 1990 and in the first half of 1992 compared to the same period in 1991. Significant worker separations at Houston occurred in 1991.

Other findings on reconsideration show that company imports of personal computers (desktop, laptop and portables) increased in 1991 and the first half of 1992 compared to the earlier respective corresponding period while desktop, laptop and portable production decreased at Houston.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that workers at Compaq Computer Corporation in Houston, Texas were adversely affected by increased imports of articles like or directly competitive with the personal computers and printed circuit boards produced at the Compaq Computer Corporation in Houston, Texas. In accordance with the provisions of the Act, I make the following revised determination for workers of the Compaq Computer Corporation in Houston, Texas.

All workers of Compaq Computer Corporation in Houston, Texas who became totally or partially separated from employment on or after January 1, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 9th day of September 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 92-22803 Filed 9-18-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,006, et al.]

Global Marine Drilling Co.; Houston, TX, et al., Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

Operating Offshore in the Following States

TA-W-27,006A Texas,
TA-W-27,006B Louisiana,
TA-W-27,006C Mississippi,
TA-W-27,006D Alabama and,
TA-W-27,006E Alaska.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 18, 1992 applicable to all workers of Global Marine Drilling Company, Houston, Texas. The certification notice was published in the Federal Register on June 12, 1992 (57 FR 25081).

At the request of the State Agency, the Department reviewed the subject certification. The findings show that worker separations occurred from drilling rigs in the Gulf of Mexico and off the coast of Alaska. Therefore, the Department is amending the certification to include all offshore locations in the States of Texas, Louisiana, Mississippi, Alabama and Alaska.

The intent of the Department's certification is to include all workers of Global Marine Drilling Company who were adversely affected by increased imports.

The amended notice applicable to TA-W-27,006 is hereby issued as follows:

All workers of Global Marine Drilling Company, Houston, Texas and operating offshore in the States of Texas, Louisiana, Mississippi, and Alabama and Alaska, who became totally or partially separated from employment on or after March 5, 1991, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-22802 Filed 9-18-92; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Zeigler Coal Company

[Docket No. M-92-96-C]

Zeigler Coal Company, 50 Jerome Lane, Fairview Heights, Illinois 62208 has filed a petition to modify the application of 30 CFR 75.352 (aircourses and belt haulage entries) to its Spartan Mine (I.D. No. 11-00612) located in Randolph County, Illinois. Section 75.352 is not scheduled to be effective until November 16, 1992 (57 FR 34683). The petitioner proposes to ventilate the belt haulage slope with return air and monitor the belt slope with an automatic fire sensor and warning device system. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Costain Coal, Inc.

[Docket No. M-92-97-C]

Costain Coal, Inc., P.O. Box 289, Sturgis, Kentucky 42459-0289 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Baker Mine (I.D. No.15-14492) and its Pyro No. 9 Wheatcroft Mine (I.D. No. 15-13920) both located in Webster County, Kentucky. The petitioner proposes to install a low-level carbon monoxide detection system in all belt entries where a sensor location is identified instead of a monitoring system which identifies each belt flight. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. Costain Coal, Inc.

[Docket No. M-92-98-C]

Costain Coal, Inc., P.O. Box 289, Sturgis, Kentucky 42459-0289 has filed a petition to modify the application of 30 CFR 75.901(a) (protection of low- and medium-voltage three-phase circuits used underground) to its Baker No. 13 Mine (I.D. No. 15-14492) and its Wheatcroft No. 9 Mine (I.D. No. 15-13920) both located in Webster County, Kentucky. The petitioner proposes to operate a diesel-powered generator without an earth-referenced ground to supply electrical power mobile mining equipment when such mining equipment is being moved from one area of the mine to another. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. U.S. Steel Mining Company, Inc.

[Docket No. M-92-99-C]

U.S. Steel Mining Company, Inc., 600 Grant Street, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Cumberland Mine (I.D. No. 36-05018) located in Greene County, Pennsylvania. The petitioner requests relief from the location of high-voltage cables within 150 feet of pillar workings and proposes to use 4160 volt cables and equipment to power permissible longwall equipment. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

5. Southern Ohio Coal Company

[Docket No. M-92-100-C]

Southern Ohio Coal Company, 41 South High Street, Columbus, Ohio 43215-6194 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Meigs No. 2 Mine (I.D. No. 33-01173) and its Meigs No. 31 Mine (I.D. No. 33-01172) both located in Meigs, County, Ohio. The petitioner proposes to enclose electrical equipment in a monitored fireproof structure and install an audible and visual signal activated by a carbon monoxide sensor that can be heard at all times by a responsible person. The petitioner asserts that the proposed alternate method would provide the same measure of protection as would the mandatory standard.

6. Peabody Coal Company

[Docket No. M-92-101-C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420-1990 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Camp No. 1 Mine (I.D. No. 15-02709) located in Union County, Kentucky. The petitioner proposes to seal and mine through oil and gas wells. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Magma Cooper Company

[Docket No. M-92-10-M]

Magma Cooper Company, P.O. Box 37, Superior, Arizona 85273-0037 has filed a

petition to modify the application of 30 CFR 57.6204(a)(2) (hoists) to its Magma Mine (I.D. No. 02–00152) located in Gila County, Arizona. The Petitioner proposes to hoist muck and explosive simultaneously in adjacent compartments. The petitioner asserts that the proposed alternate method would provide the same measure of protection as would the mandatory standard.

8. Magma Cooper Company

[Docket No. M–92–11–M]

Magma Cooper Company, P.O. Box 37, Superior, Arizona 85273–0037 has filed petition to modify the application of 30 CFR 57.11059 (respirable atmosphere for hoist operators underground) to its Magma Mine (I.D. No. 02–00152) located in Gila County, Arizona. The petitioner proposes to use an independent ventilation system that converts to a one-hour self-contained breathing apparatus instead of a two-hour breathing apparatus. The petitioner states that the two-hour device cannot be found in the marketplace.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 21, 1992.

Copies of these petitions are available for inspection at that address.

Dated: September 15, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92–22804 Filed 9–18–92; 8:45 am]

BILLING CODE 4510–43–M

Pension and Welfare Benefits Administration

Extension of Grace Period for Assessment of Civil Penalties for Failure to File Timely Annual Return/Reports; Top Hat Plans and Pre-Grace Period Late Filers

The U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) has announced it is extending until December 31, 1992 the Grace Period for plan administrators who voluntarily file overdue annual reports for 1988 and subsequent plan years. The Grace Period, which began March 23, 1992 and was scheduled to end on September 30, 1992, gives pension and welfare plan administrators the opportunity to file overdue annual reports without incurring the full civil penalty allowed under section 502(c)(2) of the Employee Retirement Income Security Act of 1974 (ERISA). For additional information on the filing requirements see PWBA's two previous **Federal Register** notices published on April 20, 1992 (57 FR 14436) and July 24, 1992 (57 FR 33019).

PWBA cities several factors in its decision to extend the Grace Period. Most notably the extension serves to further PWBA's policy goal of bringing plans into compliance with the reporting requirements of ERISA. In addition, the eligibility of certain plans, such as "top hat" plans and plans that had filed overdue annual reports before the start of the Grace Period, was not clarified until the second notice was published on July 24, 1992. This decision also was made in part to extend relief to those individuals affected by Hurricanes Andrew and Iniki, following the example of the Internal Revenue Service (IRS) which granted filing and payment extensions to certain taxpayers and tax practitioners affected by Hurricane Andrew. (Notice 92–40, 1992–38 I.R.B. 1) Lastly, the Department has become aware that a significant number of people seeking to take advantage of the Grace Period have encountered some difficulty in concluding the necessary audits and other takes associated with filing complete annual reports.

Where to File

Copies of statements, annual return/reports with original signatures and checks for the penalty amount, made payable to the U.S. Department of Labor, must be sent to: Pension and Welfare Benefits Administration, P.O. Box 75212, Washington, DC 20013–5212. For complete filing instructions see the two previous PWBA **Federal Register** notices cited above at 57 FR 14436 and 57 FR 33019.

FOR FURTHER INFORMATION CONTACT: Janet Powell, Division of Reporting Compliance, Office of the Chief Accountant. Telephone (202) 523–8776. After September 28, 1992 phone (202) 219–8776. (These are not toll-free numbers).

Signed at Washington, DC, this 16th day of September, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–22801 Filed 9–18–92; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–48]

NASA Advisory Council [NAC], Space Systems and Technology Advisory Committee (SSTAC); Meeting on Communications and Information

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Space Systems and Technology Advisory Committee meeting on communications and information.

DATES: October 14, 1992, 8:30 a.m. to 5 p.m.; October 15, 1992, 8:30 a.m. to 5 p.m.; and October 16, 1992, 8:30 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, Jet Propulsion Laboratory, room 102, Building 198, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Dr. Henry Plotkin, National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771, 301/286–6185.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Space Research & Technology Program
—Base Research & Technology
—Space Science Thrust
—Operations Thrust
—Communications Program
—Sensing Systems
—Data Systems and Information Management

Dated: September 11, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[ER Doc. 92–22701 Filed 9–18–92; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting two notices of information collections that will affect the public. Interested persons are invited to submit comments

by October 21, 1992. Comments may be submitted to:

(A) *Agency Clearance Officer:* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or by telephone (202) 325–7335. and to:

(B) *OMB Desk Officer:* Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: 1992 Joint NSF/NIH Survey of Public Understanding of Science.

Affected Public: Individuals.

Respondents/Reporting Burden: 5,200 respondents; 20 minutes per response.

Abstract: This telephone survey of 5,200 adults measures attitudes toward, and understanding of, S&T. The data will be used in the National Science Board's Congressionally-mandated report, Science & Engineering Indicators. Other users will include: the NIGH; policy makers; researchers; and sponsors of survey abroad, with which this survey is closely coordinated.

Dated: September 15, 1992.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 92–22768 Filed 9–18–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Thermal Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: September 30, 1992; 8:30 a.m. to 5 p.m.

Place: Room 500C, 1110 Vermont Ave, NW., Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Drs. Merrill King and Michael Chen, Program Directors, Room 1115, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–9606.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Small Business Innovation Research (SBIR) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c),(4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Difficulty arranging an appropriate time when all members could meet.

Dated: September 16, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22767 Filed 9–18–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Advanced Boiling Water Reactors; Cancellation

A meeting of the ACRS Subcommittee on Advanced Boiling Water Reactors scheduled to be held on September 23–24, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD has been cancelled at the request of the NRC staff. Notice of this meeting was published in the **Federal Register** on Wednesday, September 2, 1992 (57 FR 40204).

For further information contact: Mr. Elpidio Igne, cognizant ACRS staff engineer, (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: September 14, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–22753 Filed 9–18–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Improved Light Water Reactors; Meeting

The ACRS Subcommittee on Improved Light Water Reactors will hold a meeting on September 23, 1992, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, September 23, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will review SECY–92–287, "Form and Content for a Design Certification Rule."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Elpidio G. Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: September 14, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–22754 Filed 9–18–92; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Adjustment of Preferred Rates

AGENCY: Postal Service.

ACTION: Notice of adjustment of preferred rates.

As contemplated in the Postal Service Appropriations Act for Fiscal Year 1992, enacted on October 21, 1991, the Postal Service has determined that, pursuant to Resolution 92–4 of the Governors of the United States Postal Service, 57 FR 41793 (September 11, 1992), the following adjustments to the preferred rates for non-letter size bulk third-class nonprofit mail shall take effect at 12:01 a.m. on Sunday, October 4, 1992.

Notes 3, 4, and 5 of Rate Schedule 302 are not referenced in this **Federal Register** document but are republished for the information of the user.

RATE SCHEDULE 302 THIRD-CLASS MAIL NONPROFIT BULK [1]

	Piece rate(cents)	Pound rate (cents)
Non-Letters Size:		
Piece Rate [6]	16.4	
Discounts (Per Piece):		
Destination Entry:		
BMC	1.2	
SCF	1.7	
Delivery Office [2]	2.2	
Presort Level:		
3- and 5-Digit	1.4	
Carrier Route	4.5	
125-Piece Walk-Sequence	4.7	
Saturation	5.2	
Pound Rate [6]:		
Pound Rates Plus Per Piece Rate	7.1	44.6
Discounts:		
Destination Entry (Per Pound):		
BMC		5.8
SCF		8.1
Delivery Office [2]		10.4
Presort Level (Per Piece):		
3- and 5-Digit	1.4	
Carrier Route	4.5	
125-Piece Walk-Sequence	4.7	
Saturation	5.2	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Applies only to carrier route presort, 125-piece walk-sequence and saturation mail.
[3] For letter size pieces meeting applicable Postal Service regulations.
[4] Among ZIP+4 and barcode discounts, only one discount may be applied.
[5] Deducted from otherwise applicable 3- and 5-digit rate.
[6] Mailer pays either the piece or the pound rate, whichever is higher.

A commensurate change will be made in the special bulk third-class rate charts in section 611 of the domestic Mail Manual, incorporated by reference in the Code of Federal Regulations by 39 CFR 111.1, and a transmittal letter making these changes in the Domestic Mail Manual will be published and will be transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the Federal Register as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel Legislative Division.

[FR Doc. 92-22630 Filed 9-18-92; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF STATE

[Public Notice 1698]

Defense Trade Advisory Group; Meeting

AGENCY: U.S. Department of State, Office of Defense Trade Policy, Bureau of Politico-Military Affairs.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(1) of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Defense Trade Advisory Group (DTAG). The DTAG, established in February 1992 pursuant to the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. app. I), provides a formal mechanism for U.S. government officials, U.S. defense contractors, and other defense trade specialists to consult regularly on issues related to commercial arms sales. These include broad policy and technology transfer issues, as well as regulations and licensing procedures governing U.S. commercial munitions exports.

DATES: The open session will take place on Wednesday, October 14, 1992, from 2 p.m. to 5 p.m..

ADDRESSES: The meeting will be held in room 155-B Marshall Hall of the National Defense University (NDU). NDU main entrance is at 4th and P Streets, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda L. Lum, DTGA Secretariat, U.S. Department of State, PM/DTP—room 7815 Main State, Washington, DC 20520-7815. Phone (202) 647-4231, Fax (202) 647-4232/1346.

SUPPLEMENTARY INFORMATION: Attendance is open to the general public, but will be limited to the space available. As entry into the National Defense University is controlled, persons wishing to attend must notify the DTAG Executive Secretariat by Monday, September 28, 1992. Attendees should provide their date of birth, company or organization affiliation, and social security number to the DTAG Secretariat (Attention: Eva Chesteen). Attendees must carry a valid photo ID with them to the open session. Entrance to NDU will be through its main entrance at 4th and P Streets, SW., Marshall Hall is a 10-15 minute walk from the main gate. Parking spaces at NDU are limited.

Dated: September 10, 1992.

Rand Beers,

Director, Center for Defense Trade, Bureau of Politico-Military Affairs.

[FR Doc. 92-22723 Filed 9-18-92; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 92-033]

Special Service Great Lakes Limited Domestic Load Line

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: This notice advises the affected public of the availability of a special service limited domestic load line for unmanned dry cargo barges carrying nonhazardous cargoes, operating between Calumet Harbor, Illinois and Milwaukee, Wisconsin.

EFFECTIVE DATE: This notice is effective on September 21, 1992.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Keith Dabney, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard (G-MTH-3) room 1308, 2100 Second Street SW., Washington DC 20593-0001. Telephone (202) 267-2988.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1992, the Coast Guard published a notice of exemption and request for comments [57 FR 22663] concerning the Coast Guard's determination that a Special Service Limited Domestic Voyage Load Line Certificate would be available, on a case-by-case basis, for certain unmanned river barges operating between Calumet Harbor, Illinois and Milwaukee, Wisconsin. Interested persons were given until June 29, 1992, to comment on this determination.

For many years, the Coast Guard has sought to maintain a reasonable comparability between domestic load line regulations and the provisions of the International Convention of Load Lines, 1966. Many of the domestic load line regulations derive from the Coastwise Load Line Act, 1935 (46 U.S.C. app. 88a-88h, 46 U.S.C. 5102 *et seq.*). A regulatory project, docket number CGD 86-013, is in progress to update the load line regulations.

One anomaly in the regulations that has been identified is the lack of uniformity in the geographic areas where load line requirements are applied. Great Lakes load line regulations require a "full service" load line certificate for certain vessels over 79 feet in length operating in any location on the Great Lakes. However, almost all other geographic areas have "boundary lines" delineating where load line requirements apply. For instance, in

the Gulf of Mexico, the boundary line roughly follows a 12-nautical-mile contour of the shore. In other cases, inland vessels operating on Long Island Sound, Chesapeake Bay, Puget Sound, Cook Inlet, and Norton Sound, Alaska (all which have wind and wave conditions similar to Lake Michigan) do not need a load line certificate because they are inside the boundary line. Historically, the Coast Guard has used special service domestic load lines in addition to special exemptions as a means to offset this disparity and reduce the burden of the regulations on the public. It is within this context that an in-depth analysis and evaluation of the Port of Milwaukee's request was made.

Discussion of Comments

Forty-eight organizations and individuals commented on the notice. Thirty-one supported the Coast Guard's action. Four requested additional explanatory information (contained in this notice) before implementation of the approval. Eleven disagreed with the action. The comments are discussed below. Similar general comments are discussed within a subject category. Other more specific comments are addressed individually.

A. Harbors of Safe Refuge

Two comments stated that the distance between Chicago, Illinois and Milwaukee, Wisconsin is too great for river barges since there is an inadequate and/or unsuitable number of harbors of safe refuge along the route. The number of times that such ports are used should be minimal. Requirements specified for this special service limited domestic load line provide that a voyage may not be undertaken until likely weather conditions are assessed and are determined to be within specified parameters. Therefore, only when lake conditions change to such an extent that continued travel endangers the tow would a harbor of safe refuge be necessary. According to the United States Coast Pilot, Volume 6, there are at least two ports where a tow could seek shelter: Waukegan, Illinois and Kenosha, Wisconsin. Both Waukegan and Kenosha can accommodate a tow which meets the requirements of this notice. The maximum distance between harbors of safe refuge is 36 nautical miles (Kenosha to Milwaukee). Therefore, a maximum distance of only 18 nautical miles would have to be traveled under conditions where safe refuge would be needed.

B. Storm, Wind, Wave, and Ice Conditions

Two comments stated that storm, wind, and ice conditions are too severe to allow river barges on the proposed route. Specifically, one said "[s]torms often come up suddenly. River barges could not survive a cyclonic storm on the Great Lakes." The comment continues by stating that river barges cannot survive the wind-generated waves found on the route. The specific purpose of the imposed wind and wave restrictions is to minimize exposure to extreme hull stresses. In addition, it cannot be assumed that even if the barges were to receive a normal Great Lakes load line, the vessels could withstand all storm and sea conditions which might occur on the Great Lakes. Five comments stated that the imposed restrictions are sufficient to ensure safe movement even when severe conditions exist.

Regarding the 4-foot wave height restriction, one comment questioned the accuracy of the 4-foot wave height statistics listed in the previous notice and suggests that they be reexamined based on advice from tug and tow operators. The comment presented considerable data which was intended to show that the percentage of time in which average wave heights exceeded 4 feet was greater than that listed in the notice. The purpose of listing the wave height percentages in the prior notice, as determined by the National Oceanic and Atmospheric Administration (NOAA) in its report, was to provide individuals and organizations with an estimate of how often operation along this route would most likely be possible, given the 4-foot wave height operating limitations. The wave height limitation of 4 feet was chosen based on input from several operators, and was validated in most of the comments received, as providing a benchmark for when travel along the route would be reasonable. The Coast Guard considers the NOAA data accurate. But even if they are not, the only effect will be that the number of days that operation is allowed will be less than anticipated.

One comment also expressed concern over the lack of any operational limits on the barges for use in ice conditions and that no analysis was made to conclude that river service barges can be towed safely in an ice environment. The comment recommends that some type of restriction be made for operations between January and March. The Coast Guard agrees that this is a reasonable precaution and has adjusted the operating conditions to address ice conditions.

Finally, it is axiomatic that the owners and operators of unmanned dry cargo river barges must exercise good judgment and common sense. The operating restrictions set forth in this notice are not being established for the purpose of guaranteeing safe passage, either expressly or implicitly. That is neither appropriate nor possible. The operating and other requirements set forth in this notice are meant to provide some guidance for operation. Safe operation of a vessel is the duty of the owner and/or operator. The establishment of more restrictive operating limitations by an owner or operator may be appropriate or even advisable under certain circumstances. Before undertaking a voyage along any route, all relevant factors which might affect the safety of the voyage must be considered collectively: the particular vessel involved, the cargo, the time of year, and the length of the transit, to name a few. By establishing minimum conditions for operation, the Coast Guard is not attempting to eliminate the need for good seamanship, reasonable judgment, and common sense on the part of owners and operators of the barges.

C. Five-Nautical-Mile Limitation

One comment suggested that the Coast Guard was implicitly creating a 5-nautical-mile corridor inside all the Great Lakes and thus making all such waters "inland water." This is not the Coast Guard's intention. As noted earlier, inland vessels not operating beyond the boundary lines for inland waters are excluded from load line requirements. The 5-nautical-mile limitation was set in an effort to minimize adverse conditions affecting the towing operation by limiting fetch actions and thus reducing the likelihood of high wind and sea states. A blanket approval for all non-load line operation within a 5-nautical-mile corridor along all of the Great Lakes is not being contemplated. Future requests for special service limited domestic load lines will be considered only after extensive review and evaluation.

D. Structural Adequacy of River Barges

Two comments expressed concern about the structural adequacy of river barges on the Great Lakes. Six comments, primarily from towboat owners and operators on the Great Lakes, stated that the operational and conditional restrictions were such as to provide an appropriate level of safety. One organization, with extensive towing experience in gulf and coastal operations, also commented favorably

in this regard. The Coast Guard fully recognizes that barges built to river service scantlings may not be suitable for unrestricted service on the Great Lakes. However, unrestricted service is not the intent of this notice. In addition, river barges are not fragile structures. They operate in a severe work environment in which they are subjected to a greater than average number of impact loadings and groundings. As a result, they are designed to withstand heavy use, and should be adequate for the planned service when the original scantlings are maintained.

E. Adequate Stability

This subject was addressed by one comment in three respects: the use of a uniformly assigned freeboard, the absence of watertight hatch coves, and concerns over shifting cargo.

One comment recommended that the assigned freeboard be set specific to each barge. However, the previous notice set *minimum* freeboard values, not uniform values, which is consistent with freeboard requirements for similar vessels found in 46 CFR 44.05–25(e).

One comment suggested requiring weathertight hatch covers on hopper barges to reduce the chances of taking on water. The requirement to operate in fair weather is intended to minimize the need for covers unless the cargo is such that protection from the environment is essential. It is reasonable to assume that, in this case, the owner or operator would use covers, acting in his or her own interest. In addition, imposing such a requirement would be contrary to existing policy for fair weather voyage load line assignments. There are several fair weather voyage services which do not require hatch covers which have been in effect for some time without reports of problems.

Provisions to minimize shifting cargoes are an owner/operator responsibility. However, a precaution to this effect has been added to the minimum operating conditions as a reminder.

G. Requirements for Towing Vessels

One comment felt that the Coast Guard should clarify that the minimum tug horsepower, regardless of number of barges towed, is 1,000. The wording of the 1,000 horsepower requirement has been modified as suggested.

Another comment from a large towing operator on the Great Lakes, agreed with the horsepower restriction but felt that some details of a towing operation must be left to operator discreation. For example, based on weather conditions a tow might push ahead or tow alongside. In rougher waters, towing on a hawser might be necessary. The Coast Guard agrees. It is very difficult, and certainly beyond the scope of this notice, to address every possible factor which could effect a towing operating and such efforts could conceivably be overly restrictive at times.

H. Legal Considerations

One comment suggested that this action be done as a rulemaking activity. The Coast Guard's position is that existing regulations in 46 CFR parts 42, 44, and 45 provide sufficient authority for the action taken. Given the sheltered nature of the voyages and the recommendations of the American Bureau of Shipping (ABS), the determination is well within the discretion permitted by the regulations. ABS has taken no action to implement the special service limited domestic load line for unmanned dry cargo barges carrying nonhazardous cargoes, operating between Calumet Harbor, Illinois and Milwaukee, Wisconsin prior to public comment and publication of this second notice.

Along the same lines, one comment said that the Coast Guard's action was contrary to 46 U.S.C. 5104(e), which allows for regulations, not policy, to identify areas of less severe weather. However, 46 CFR part 45 is based upon 46 U.S.C. 5108, special exemptions, not 46 U.S.C. 5104(e). Existing regulations, 46 CFR 45.15(a), permit the Coast Guard to allow partial exemption of load line requirements based on reroute or service. This is especially noteworthy since the route lies wholly within United States territorial waters. This same comment also pointed out that, under 46 CFR part 45, the Coast Guard is obliged to have agreement from the Canadian government regarding any special exemptions. Although not addressed in the previous notice, the Canadian Coast Guard (Ship Safety Branch) is aware of and agrees with the Coast Guard's position on the use of special service load lines.

One comment stated that a partial load line exemption should not be done at the request of an organization that is neither an owner nor an operator of barges, because the "applicant * * * does not have standing to make request for rule change". This commenter is seeking to apply "standing" requirements that the courts have established in order to assure that judicial review or relief sought in court involves addressing an injury to a legally protected right belonging to the litigant. Standing concepts do not apply here. The Port of Milwaukee worked closely with several towing companies in developing its request and, although not an owner or operator of barges, it clearly has a right to make such a request. The Port of Milwaukee presented its request, with supporting documentation, to the load line assigning authority, the ABS. The ABS reviewed the material and formally presented it, with its positive recommendation, to the Coast Guard for review and consideration.

H. Oversight Provision

One comment suggested that some form of oversight provision be implemented by the Coast Guard. Within its general authority to conduct boardings (14 U.S.C. 89), the Coast Guard will make spot checks for compliance with the operating requirements. In addition, there is already an existing oversight program in place to review actions taken by the ABS on behalf of the Coast Guard.

I. Other Comments

One comment objected to the absence of any requirement for a drydock examination. However, the original notice stated that an initial load line survey, and subsequent yearly inspections, are required. The Coast Guard's intention was that the applicable provisions of 46 CFR subpart 42.09, made applicable to special service limited domestic voyage load lines by § 44.01–5(a), including a drydock examination, would be enforced by the load line assigning authority. Because the load line certificate will be for a full term, i.e., 5 years, the barge must undergo all the annual surveys required for any vessel receiving a load line.

One comment offered that the exemption would constitute a significant Federal action and thus, under the National Environmental Policy Act of 1969, an Environmental Impact Statement must be prepared. The Coast Guard has considered the environmental impact of this notice, and does not agree that such a conclusion is warranted. The load line is to be assigned by the ABS on a case-by-case basis. Each barge must meet certain structural and operating conditions, and is subject to inspection to determine suitability for assignment of the load line. Fair weather and 5-nautical-mile limit operating conditions are imposed on these vessels. Finally, and most significantly, only dry, nonhazardous cargo may be transported under this special service limited domestic load line. Given these factors, this policy would not significantly affect the quality of the human environment, as suggested, and therefore, an Environmental Impact Statement is not required. In fact, the Coast Guard has

concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this action is categorically excluded from further environmental documentation.

Operating Restrictions

The requirements for the granting of a Special Service Limited Domestic Voyage Load Line Certificate are set forth in this notice. They consist of essentially all of the requirements for unmanned river service dry cargo barges contained in 46 CFR part 45, subpart E (Calumet Harbor-Burns Harbor route), in addition to certain operating restrictions. The certificate requirements, and additional operation and certification restrictions, which will appear on the load line certificates, are:

1. The certificates shall be valid only for unmanned river dry cargo barges.

2. Vessel operation is limited to voyages between Calumet Harbor, Chicago, Illinois, and Milwaukee, Wisconsin. Vessels may make stops along any ports of call along this route.

3. No hazardous materials, as defined in 46 CFR part 148 or 49 CFR subchapter C, will be carried as cargo. Cargoes to be carried are limited to dry commodities, such as steel products, heavy machinery, dry bulk fertilizer, grain, bulk cement, scrap materials, and forest products.

4. The towing vessel shall have adequate horsepower to handle the size of the tow, with a minimum of 1,000 horsepower. The tow shall be limited to a maximum of three barges.

5. Before commencement of any voyage, the towing vessel operator shall ensure the following:

(a) Deck and side shell plating must be free of visible holes, fractures, or serious indentations as well as damage that would be considered in excess of normal wear and tear.

(b) Cargo box side and end coamings must be watertight.

(c) All manholes must remain covered and secured watertight.

6. The towing vessel shall maintain radio contact with the local weather radio network.

7. Prior to getting underway for a voyage between Calumet Harbor, Chicago and Milwaukee, the towing vessel operator must determine the weather expected along the proposed route. When environmental conditions are expected to exceed the following wind speed and wave height limits at any time during the course of the planned voyage, the towing vessel is not authorized to leave harbor.

Wind direction	Continuous velocity	Wave height
SE, E, NE	15 knots	4 feet.
SW, W, NW	20 knots	4 feet.
N, S	20 knots	4 feet.

While underway between Calumet Harbor, Chicago and Milwaukee, if environmental conditions exceed the above limits, the towing vessel must proceed immediately to a harbor of safe refuge.

8. The distance from shore during the course of the voyage shall not exceed 5 nautical miles.

9. Towing is permitted only if ice conditions are such that operation of the vessel is not imperiled.

10. Precautions shall be taken to prevent shifting of cargo.

11. Nothing in this permit shall be construed as lessening or waiving any other regulatory requirements applicable to operation on the Great Lakes.

Barge Conditions

In determining a vessel's suitability for assignment of a load line, the following variances to conditions apply:

1. The barge length to depth ratio shall not exceed 22.

2. Evidence must be provided to ABS that demonstrates that the barge was built, and has been maintained, to the minimum scantlings of the ABS River Rules that were in effect at the time of construction.

3. The assigned freeboard shall be at least 24 inches. For open hopper barges, the combined operating freeboard plus the height of cargo box coamings shall be at least 54 inches.

A vessel that meets all of the foregoing requirements will be eligible for a Special Service Limited Domestic Voyage Load Line Certificate. An initial load line survey meeting the requirements of 46 CFR 42.09–25 with subsequent annual surveys meeting the requirements of 46 CFR 42.09–40 will be required to determine compliance with the above requirements as well as the condition of all watertight openings and closures and the structural integrity of the vessel.

The ABS has been authorized to issue load line certificates on behalf of the Coast Guard in accordance with the requirements set forth in this notice.

Dated: August 28, 1992.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–22633 Filed 9–18–92; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review Decatur Airport, Decatur, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed Noise Compatibility Program (NCP) that was submitted for Decatur Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Decatur Airport Authority. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Decatur Airport were in compliance with applicable requirements effective April 15, 1991. The proposed Noise Compatibility Program will be approved or disapproved on or before March 8, 1993.

EFFECTIVE DATE: The effective date of the FAA's start of its review of the associated noise compatibility program is September 9, 1992. The public comment period ends November 9, 1992.

FOR FURTHER INFORMATION CONTACT: Jerry R. Mork, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, CHI–ADO–630.5, 2300 East Devon Avenue, room 258, Des Plaines, Illinois 60018, (312) 694–7522. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Decatur Airport. The program will be approved or disapproved on or before March 8, 1993. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the Noise Compatibility Program for the

Decatur Airport, effective September 9, 1992, after reviewing and accepting the errata and revised exhibits submitted on April 22, 1992, and June 30, 1992. These errata and revised exhibits were submitted in response to our April 3, 1992, and June 3, 1992 reviews, based on the sponsor's original submittal of August 30, 1991. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 8, 1993.

The FAA's detailed evaluation will be conducted under the provision of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, Great Lakes Region, Airports Division, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, room 258, Des Plaines, Illinois 60018

Decatur Airport, Airport Director's Office, 910 Airport Road, Decatur, Illinois 62521

Division of Aeronautics, Illinois Department of Transportation, Capital Airport, One Langhorne Bond Drive, Springfield, Illinois 62706

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, September 9, 1992.

Louis H. Yates,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 92-22738 Filed 9-18-92; 8:45 am]

BILLING CODE 4910-13-M

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from October 13 through October 15, 1992, from 8:30 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW. Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore H. Davies, Executive Director, ATPAC, Air Traffic Rules and Procedures Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3725.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held from October 13 through October 16, 1992, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. The meeting will be held in the MacCracken Room on October 13 and 16 and in Conference Room 8ABC on October 14 and 15.

The agenda for this meeting will cover: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than October 9, 1992. The next quarterly meeting of the FAA ATPAC is planned to be held from January 4-8, 1993, in San Juan, PR. Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on September 10, 1992.

Theodore H. Davies,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 92-22741 Filed 9-18-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Key West International Airport, Key West, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Key West International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Peter Horton, Director of Community Services, Monroe County, at the following address: Public Service Building, 5100 College Road, Key West, Florida 33040-4399.

Air carriers and foreign air carriers may submit copies of written comments

previously provided to Monroe County, Florida under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans & Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, FL 32827–5397, telephone (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Key West International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 9, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by Monroe County, Florida was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 25, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1993.

Proposed charge expiration date: January 1, 1996.

Total estimated PFC revenue: $1,006,000.

Brief description of proposed projects:

Key West International Airport: 1. Master Stormwater Study.

2. Development of Regional Impact/ Major Conditional Use Study.

3. Master Plan Update.

4. Environmental Assessment Study.

5. Terminal Expansion Project.

6. Renovation of FIS Facility.

7. Airfield Signage Project.

Marathon Airport: 1. Terminal Complex Construction

Class or classes or air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT."**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Monroe, Public Service Building, 5100 College Road, Key West, Florida.

Issued in Atlanta, Georgia, on September 9, 1992.

Stephen A. Brill,

Manager, Airports Division Southern Region.

[FR Doc. 92–22739 Filed 9–18–92; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Marathon Airport, Marathon, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Marathon Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Peter Horton, Director of Community Services, Monroe County, at the following address: Public Service Building, 5100 College Road, Key West, Florida 33040–4399.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Monroe, Florida under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans & Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, FL 32827–5397, telephone (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Marathon Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 9, 1992, the FAA determined that the application to impose a PFC submitted by Monroe County, Florida was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 25, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1993.

Proposed charge expiration date: January 1, 1996.

Total estimated PFC revenue: $203,000.

Brief description of proposed projects:

1. Master Stormwater Study.

2. Development of Regional Impact/ Major Conditional Use Study.

3. Master Plan Update.

4. Terminal Complex Construction.

5. Airfield Signage.

6. Clear Runway 7–25 Safety Area.

7. Install Obstruction Lights Adjacent to Runway 7–25.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT."**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Monroe County, Public Service Building, 5100 College Road, Key West, Florida.

Issued in Atlanta, Georgia, on September 9, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92–22740 Filed 9–18–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 14, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0904.
Regulation ID Number: INTL–45–86 Final.
Type of Review: Extension.
Title: T.D. 8125 Foreign Management and Foreign Economic Processes Requirements of Foreign Sales Corporation.
Description: The regulations provide rules for complying with foreign management and foreign economic process requirements to enable Foreign Sales Corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Rules are included for maintaining records to substantiate compliance. Affected public is limited to large corporations that export goods or services.
Respondents: Businesses or other for-profit.
Estimated Number of Recordkeepers: 11,001.
Estimated Burden Hours Per Recordkeeper: 2 Hours.
Frequency of Response: Recordkeeping.
Estimated Total Reporting Burden: 22,001 Hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 92–22702 Filed 9–18–92; 8:45 am]

BILLING CODE 4830–01–M

Departmental Offices

Privacy Act of 1974; Publication of an Existing System of Records

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of an existing Privacy Act system of records.

SUMMARY: The Department of the Treasury gives notice of an existing system of records which is to be added to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). Public Transportation Incentive Program Records—Treasury/Do .203 was established to collect and maintain records pertaining to Treasury Department employees who have applied for and those who have been accepted as participants in the Public Transportation Incentive Program (PTI Program).

DATES: Comments must be received no later than October 21, 1992. The notice for this system of records will be effective on that date unless comments are received which result in a contrary determination.

ADDRESSES: Please submit comments to Departmental Disclosure Officer, Disclosure Services, Department of the Treasury, Room 1054–MT, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Privacy Act Officer, Disclosure Services, Department of the Treasury, Room 1054–MT, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: The Public Transportation Incentive Program Records system was established by the Department of the Treasury to: (1) Maintain information on the applicants and participants in the PTI Program; (2) ensure only one fare incentive per month is available to eligible employees; (3) research applicants' eligibility for the Program; and (4) report on changes in existing employees' commuting methods.

As a rule, the Federal Government does not subsidize an employee's cost of commuting to or from work. However, Section 629 of the Treasury, Postal Service and General Government Appropriations Act of 1991 (Pub. L. 101–509, 104 Stat. 1389, 1475) contains a specific statutory exception to this general rule. It provides that Federal agencies may participate in any program established by a State or local government that encourages employees to increase ridership on public transportation vehicles. General Services Administration (GSA) guidance states that appropriated funds may be used for transit incentives. The Internal Revenue Service permits a $21 per month de minimis exclusion from fringe benefit taxation for public transit passes provided to employees who commute via public transportation, effective July 1, 1991. The Department of the Treasury intends to provide its employees, to the extent practicable, with the maximum tax-free allowance permitted by law. The Program would include those State and local programs in which Federal agencies are permitted to purchase tickets, fare cards, tokens, passes, or other instruments at a discount for distribution to agency personnel. By statute, the provisions of the incentive program will be effective through December 31, 1993.

The system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Operations in the House of Representatives, the Committee on Governmental Affairs in the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4.b. of Appendix I to OMB Circular A–130, "Federal Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, dated December 24, 1985). The Privacy Act system of records notice is published in its entirety below.

Treasury/DO .203

SYSTEM NAME:

Public Transportation Incentive Program Records—Treasury/DO.

SYSTEM LOCATION:

(1) Departmental Offices, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(2) Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC 20228.

(3) United States Mint, Judiciary Square Building, 633 Third Street, NW., Washington, DC 20220; United States Mint, 5th and Arch Streets, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, Old Mint Building, 88 Fifth Street, San Francisco, CA 94103.

(4) Bureau of the Public Debt, 13th and C Streets, SW., and 999 E Street NW., Washington, DC 20239; 200 Third Street, Parkersburg, WV 26106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have applied to participate in the Public Transportation Incentive Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Public Transportation Incentive Program application form containing the participant's name, social security number, place of residence, office address, office telephone, grade level, duty hours, previous method of transportation, and the type of fare incentive requested. (2) Reports submitted to the Department of the Treasury in accordance with Treasury Director 74–10.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Public Law 101–509.

PURPOSE(S):

The records are collected and maintained to provide written

documentation pertaining to applicants and participants in the Public Transportation Incentive Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to disclose information to: (1) Appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order or license; (2) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or in connection with criminal law proceedings; (3) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (5) agencies, contractors, and others to administer Federal personnel and payroll systems, and for debt collection and employment or security investigations; and (6) other Federal agencies for matching to ensure that employees receiving PTI Program benefits are not listed as a carpool or vanpool participant or the holder of a parking permit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, file folders and magnetic media.

RETRIEVABILITY:

Alphabetically by individual and by office.

SAFEGUARDS:

Access is limited to authorized employees. Files are maintained in locked safes and/or file cabinets. Records on magnetic media are password-protected. During non-work hours, records are stored in locked safes and/or cabinets in a locked room.

RETENTION AND DISPOSAL:

Active records are retained indefinitely. Inactive records are held for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Departmental Offices: Director, Administrative Operations Division, Department of the Treasury, Room 1212 MT, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

(2) Bureau of Engraving and Printing: Chief, Office of Management Services, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

(3) United States Mint: Executive Secretariat, United States Mint, Judiciary Square Building, 633 Third Street, NW, Washington, DC 20220; Property Management Officer, Management Analysis and Property Management Staff, United States Mint, 5th and Arch Streets, Philadelphia, PA 19106; Chief, Administrative Services Division, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Human Resources Division and Budget and Accounting Division, United States Mint, Old Mint Building, 88 Fifth Street, San Francisco, CA 94103.

(4) Bureau of the Public Debt: Assistant Commissioner, Office of Administration, 200 Third Street, Parkersburg, WV 26106

NOTIFICATION PROCEDURE:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions given in the appendix for each Treasury component appearing at 31 CFR part 1, subpart C. Inquiries should be sent to the agency official identified below:

(1) Departmental Offices: Inquiries should be addressed to Assistant Director, Disclosure Services, Departmental Offices, Room 1054 MT, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

(2) Bureau of Engraving and Printing: Inquiries should be addressed to Disclosure Officer, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

(3) United States Mint: Inquiries should be addressed to Executive Secretariat, United States Mint, Judiciary Square Building, 633 Third Street, NW, Washington, DC 20220; Property Management Officer, Management Analysis and Property Management Staff, United States Mint, 5th and Arch Streets, Philadelphia, PA 19106; Chief, Administrative Services Division, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Human Resources Division and Budget and Accounting Division, United States Mint, Old Mint Building, 88 Fifth Street, San Francisco, CA 94103.

(4) Bureau of the Public Debt: Assistant Commissioner, Office of Administration, 200 Third Street, Parkersburg, WV 26106

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

The source of the data are employees who have applied for the transportation incentive, the system managers, and appropriate agency officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: September 11, 1992.

Deborah M. Witchey,

Deputy Assistant Secretary (Administration).

[FR Doc. 92-22718 Filed 9-18-92; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Dept. Cir.—Public Debt Series—No. 30-92]

Treasury Notes of September 30, 1994, Series AE-1994 (CUSIP No. 912827 G8 9)

Washington, September 16, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent to the highest yield bid at which bids were accepted. The interest rate on the Notes and the price equivalent to the highest yield at which bids were accepted will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued to Federal Reserve Banks as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position include positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amounts of bids received and accepted, the highest yield accepted, and the interest rate on the notes. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest yield at which bids were accepted will be prorated if necessary. All successful competitive bidders, regardless of the yields they each bid, will be awarded securities at the highest yield at which bids were accepted. After the determination is made as to which bids are accepted, an interest rate will generally be established, at a 1/8 of one percent increment, which produces a price equivalent to the highest yield at which bids were accepted and is closest to, but not above, par. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price equivalent to the highest yield at which bids were accepted will be determined, and each noncompetitive bidder and each successful competitive bidder will be required to pay such price for their securities. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g.,

99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb most or all of the public offering, competitive bids would be accepted in an amount determined by the Department to be sufficient to provide a fair determination of the highest yield for the securities being auctioned. Bids received from Federal Reserve Banks for their own account or for foreign and international monetary authorities will be accepted at the price equivalent to the highest yield at which bids were accepted.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the highest yield at which bids were accepted is over par. No later than 12 noon local time on the day following the auction, the appropriation Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Brnaches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual

partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will (c) the IRS employer identification number (not social security account number).

(9) *Political Subsidivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any country, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Auction of 2-Year and 5-Year Notes Totaling $25,000 Million

The Treasury will auction $14,500 million of 2-year notes and $10,500 million of 5-year notes to refund $19,000 million of securities maturing September 30, 1992, and to raise about $6,000 million new cash. The $19,000 million of maturing securities are those held by the public, including $1,400 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

As the Treasury announced on September 3, 1992, the 2- and 5-year note auctions in September will be the first ones in the year-long Treasury experiment with the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders.

The $25,000 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $1,905 million of the maturing securities that may be refunded by issuing additional amounts of the new securities.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED SEPTEMBER 30, 1992

[September 16, 1992]

Amount Offered to the Public	$14,500 million	$10,500 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series AE–1994, (CUSIP No. 912827 G8 9)	Series R–1997 (CUSIP No. 912827 G9 7).
Maturity date	September 30, 1994	September 30, 1997.
Interest rate	To be determined based on the highest accepted bid.	To be determined based on the highest accepted bid.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	March 31 and September 30	March 31 and September 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full up to $5,000,000	Accepted in full up to $5,000,000.
Accrued interest payable by investors	None	None.
Key Dates:		
Receipt of tenders	Tuesday, September 22, 1992	Wednesday, September 23, 1992.
(a) Noncompetitive	Prior to 12 noon, EDST	Prior to 12 noon, EDST.
(b) Competitive	Prior to 1 p.m., EDST	Prior to 1 p.m., EDST.
Settlement (final payment due from institutions):		
(a) Funds immediately available to the Treasury	Wednesday, September 30, 1992	Wednesday, September 30, 1992.
(b) Readily-collectible check	Monday, September 28, 1992	Monday, September 28, 1992.

[FR Doc. 92–22896 Filed 9–17–92; 11:52 am]

BILLING CODE 4810–40–M

[Dept. Cir.—Public Debt Series—No. 31–92]

Treasury Notes of September 30, 1997, Series R–1997 (CUSIP No. 912827 G9 7)

Washington, September 16, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent to the highest yield bid at which bids were accepted. The interest rate on the Notes and the price equivalent to the highest yield at which bids were accepted will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued to Federal Reserve Banks as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sales Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amounts of bids received and accepted, the highest yield accepted, and the interest rate on the notes. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then

competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest yield at which bids were accepted will be prorated if necessary. All successful competitive bidders, regardless of the yields they each bid, will be awarded securities at the highest yield at which bids were accepted. After the determination is made as to which bids are accepted, an interest rate will generally be established, at a 1/8 of one percent increment, which produces a price equivalent to the highest yield at which bids were accepted and is closest to, but not above, par. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price equivalent to the highest yield at which bids were accepted will be determined, and each noncompetitive bidder and each successful competitive bidder will be required to pay such price for their securities. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb most or all of the public offering, competitive bids would be accepted in an amount determined by the Department to be sufficient to provide a fair determination of the highest yield for the securities being auctioned. Bids received from Federal Reserve Banks for their own account or for foreign and international monetary authorities will be accepted at the price equivalent to the highest yield at which bids were accepted.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the highest yield at which bids were accepted is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payments must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

Auction of 2-Year and 5-Year Notes Totaling $25,000 Million

The Treasury will auction $14,500 million of 2-year notes and $10,500 million of 5-year notes to refund $19,000 million of securities maturing September 30, 1992, and to raise about $6,000 million new cash. The $19,000 million of maturing securities are those held by the public, including $1,400 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

As the Treasury announced on September 3, 1992, the 2- and 5-year note auctions in September will be the first ones in the year-long Treasury experiment with the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders.

The $25,000 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $1,905 million of the maturing securities that may be refunded by issuing additional amounts of the new securities.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED SEPTEMBER 30, 1992

[September 16, 1992]

Amount Offered to the Public:	$14,500 million	$10,500 million
Description of Security:		
Description and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series AE-1994 (CUSIP No. 912827 G8 9)	Series R-1997 (CUSIP No. 912827 G9 7).
Maturity date	September 30, 1994	September 30, 1997.
Interest rate	To be determined based on the highest accepted bid.	To be determined based on the highest accepted bid.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	March 31 and September 30	March 31 and September 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full up to $5,000,000	Accepted in full up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Tuesday, September 22, 1992	Wednesday, September 23, 1992.
(a) Noncompetitive	Prior to 12 noon, EDST	Prior to 12 noon, EDST.
(b) Competitive	Prior to 1 p.m. EDST	Prior to 1 p.m. EDST.
Settlement (final payment due from institutions):		
(a) Funds immediately available to the Treasury	Wednesday, September 30, 1992	Wednesday, September 30, 1992.
(b) Readily-collectible check	Monday, September 28, 1992	Monday, September 28, 1992.

[FR Doc. 92-22897 Filed 9-17-92; 11:51 am]
BILLING CODE 4810-40-M

Customs Service

[T.D. 92-91]

Revocation of Commercial Gauger Approval of Sabine Surveyors, Inc. of Port Arthur, Texas

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of the Customs Approval of a Commercial Gauger.

SUMMARY: Sabine Surveyors, Inc. of Port Arthur, Texas has notified the U.S. Customs Service that they no longer have a need to operate as a Customs approved commercial gauger and have requested that Customs revoke its approval. Therefore, pursuant to § 151.13 of the Customs Regulations (19 CFR 151.13), the Customs approval granted to Sabine Surveyors, Inc. to gauge petroleum and petroleum products, organic chemicals in bulk and liquid form and vegetable oils has been revoked in full, without prejudice.

EFFECTIVE DATE: September 10, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, room 7113, 1301 Constitution Avenue NW., Washington, DC 20229 (202) 927-1060.

Dated: September 16, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92-22769 Filed 9-18-92; 8:45 am]
BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Cultural Property Request; Mali

AGENCY: United States Information Agency.

ACTION: Notification of cultural property request made to the United States by the Government of Mali.

Convention on Cultural Property Implementation Act (Pub. L. 97-446); Cultural Property Request from the Government of Mali. Pursuant to the authority vested in me under Executive Order 12555, and pursuant to the requirement of section 303(f)(1) of the Act, 19 U.S.C. 2603(f)(1), I hereby give public notice of the receipt, on September 4, 1992, of a request made by the Government of Mali to the United States seeking U.S. import restrictions on certain categories of archaeological and ethnological material alleging that its pillage places in jeopardy the cultural patrimony of Mali.

Dated: September 14, 1992.

Eugene P. Kopp,

Acting Director, United States Information Agency.

[FR Doc. 92-22766 Filed 9-18-92; 8:45 am]
BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m., September 18, 1992.

PLACE: Conference Room, 1333 H. Street, NW, Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel Matters.

The Commission determined that no earlier notice could be given.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW, Washington, DC 20268–0001, Telephone (303) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 92–22882 Filed 9–17–92; 2:32 pm]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 21, 1992.

Closed meetings will be held on Tuesday, September 22, 1992, at 2:30 p.m. and on Thursday, September 24, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 22, 1992, at 2:30 p.m., will be:

Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.

The subject matter of the closed meeting scheduled for Thursday, September 24, 1992, at 10:00 a.m., will be:

Litigation matter.
Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272–2100.

Dated: September 16, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–22902 Filed 9–17–92; 2:33 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 52

[FAC 90-12; FAR Case 92-18]

Federal Acquisition Regulation; Cost Accounting Standards

Correction

In rule document 92-20667 beginning on page 39586 in the issue of Monday, August 31, 1992, make the following corrections:

1. On page 39587, in the first column, in the table of contents, "Subpart 30-2" should read "Subpart 30.2".

30.201-1 [Corrected]

2. On page 39587, in the third column, in 30.201-1, in the second line, "loose-lead" should read "loose-leaf".

30.201-2 [Corrected]

3. On the same page, in the same column, in 30.201-2, in the second line, "loose-lead" should read "loose-leaf".

30.201-3 [Corrected]

4. On the same page, in the same column, in 30.201-3, in the sixth line, "loose-lead" should read "loose-leaf".

30.201-4 [Corrected]

5. On the same page, in the same column, in 30.201-4(a)(1), in the seventh line and in the tenth line and in paragraph (b)(2), in the third line, "loose-lead" should read "loose-leaf".

30.201-5 [Corrected]

6. On page 39588, in the first column, in 30.201-5, in the last line, "loose-lead" should read "loose-leaf".

30.202-2 [Corrected]

7. On the same page, in the same column, in 30.202-2, in the second line, "loose-lead" should read "loose-leaf".

30.202-3 [Corrected]

8. On the same page, in the same column, in 30.202-3, in the second line, "loose-lead" should read "loose-leaf".

30.602-1 [Corrected]

9. On page 39590, in the first column, in 30.602-1(d)(3), in the sixth line, "shall" should read "should".

30.603 [Corrected]

10. On the same page, in the third column, in 30.603, in the seventh line, "of" should read "or".

52.230-1 [Corrected]

11. On page 39591, in the first column, in amendatory instruction 8., in the second line, "52.203-6" should read "52.230-6".

12. On the same page, in the third column, in 52.230-1, in paragraph (c)(3) of the contract clause, in the second line, after "offeror" insert a comma.

52.230-3 [Corrected]

13. On page 39593, in the first column, in 52.230-3, in paragraph (a)(3)(i) of the contract clause, in the fourth line, "Government" was misspelled.

52.230-5 [Corrected]

14. On the same page, in the third column, in 52.230-5, in paragraph (a)(2), in the fourth line, "Standard" should read "Standards".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Tampa Port Authority/Harborside Refrigerated Services, Inc.; Agreements Filed

Correction

In notice document 92-18599 appearing on page 34779 in the issue of Thursday, August 6, 1992, make the following correction:

In the second column, in the first line, "244-" should read "224-".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-02-4212-13; CA-29832]

Realty Action; Exchange of Public and Private Lands in Riverside and San Diego Counties, CA

Correction

In notice document 92-9800 beginning on page 17925 in the issue of Tuesday, April 28, 1992, make the following correction:

On the same page, in the third column, in the land description for Sec. 27, in the first line, "NW¼, NE¼," should read "NW¼NE¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA90

Wage and Hour Division

29 CFR Part 506

RIN 1215-AA70

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

Correction

In rule document 92-21386 beginning on page 40966 in the issue of Tuesday, September 8, 1992, make the following corrections:

1. On page 40974, in the second column, in the second full paragraph, in the tenth line, "or" should read "of".

§ ——.510 [Corrected]

2. On page 40980, in the third column, in § ——.510(g)(2)(viii), in the fifth line, "fainal" should read "final".

§ ——.615 [Corrected]

3. On page 40985, in the third column, in § ——.615(b)(4)(v), in the third line "a" should read "as".

4. On page 40992, insert at the end of the document, "[FR Doc. 92-21386 Filed 9-4-92; 8:45 am]".

BILLING CODE 1505-01-D

federal register

Monday
September 21, 1992

Part II

Department of Education

Direct Grant Programs and Fellowship Programs; Notice Inviting Applications for New Awards for fiscal Year 1993

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1993.

SUMMARY: The Secretary invites applications for new awards for fiscal year (FY) 1993 under many of the Department's direct grant and fellowship programs and announces deadline dates for the transmittal of applications under these programs. This combined application notice contains fiscal and programmatic information for potential applicants under the Department's programs announced in this issue of the **Federal Register**. This notice also lists all FY 1993 programs previously announced in the **Federal Register**, as well as FY 1993 programs to be announced at a later date.

DATES: The actual or estimated deadline dates for transmitting applications under these programs are listed in Chart 1. For programs announced in this issue of the **Federal Register**, these deadline dates are repeated in Charts 2 through 7. If a program will be announced at a later date, the actual deadline date will appear in the application notice published in the **Federal Register**.

For programs announced in this issue of the **Federal Register** that are subject to Executive Order (EO) 12372 (Intergovernmental Review of Federal Programs), the deadline dates for the transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties are listed in Charts 2 through 7.

For previously announced programs that are subject to EO 12372, the deadline dates for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties are listed in the application notices for those programs (see column three of Chart 1 for the respective publication dates of—and **Federal Register** volume and page references to—those notices).

For programs yet to be announced that are subject to EO 12372, the deadline date for the transmittal of State Process Recommendations and other comments will appear in the respective application notices for those programs (see column three of Chart 1 for the estimated publication dates of those notices).

For programs announced in this issue of the **Federal Register**, the charts also list the dates on which applications will be available.

For previously announced programs or for programs yet to be announced, the date on which applications will be available for any given program is in the application notice for that program.

ADDRESSES: The address and telephone number for obtaining applications for, or further information about, a program announced in this issue of the **Federal Register** are in the respective notice for that program following the appropriate chart in part II of this notice.

Individuals who are hearing-impaired or other persons who use a telephone device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who are hearing-impaired or others who use a TDD may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

The address for transmitting recommendations and comments under intergovernmental review is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

SUPPLEMENTARY INFORMATION: The Secretary believes that placing as many application notices as possible in a single notice will assist potential applicants in planning projects and activities. Further, this notice offers a complete picture of virtually all the Department's direct grant and fellowship competitions available for FY 1993. If additional competitions are carried out in FY 1993 because of new legislation or other events not known at this time, the Secretary will announce those competitions in future issues of the **Federal Register**. Some of the additional programs or competitions are expected to result from the Higher Education Amendments of 1992 (Pub. L. 102–325; 106 Stat. 448), enacted July 23, 1992.

Organization of Notice

This notice is organized in two parts.

Part I lists in Chart 1 all direct grant programs and certain fellowship programs under which the Secretary is making, or plans to make, new awards in FY 1993. The listings are organized under the principal program offices of the Department. For each principal office the listing includes three categories of application notices: those already published, those published in this issue of the **Federal Register**, and those to be published at a later date. The programs are listed in order of their Catalog of Federal Domestic Assistance (CFDA) numbers irrespective of category. The listing for each office contains the following information:

- The CFDA number of each program.
- The name of that program.
- A reference to the application notice.
- The deadline date or estimated deadline date for the transmission of applications.

Application Notices

If the application notice for a particular program already has been published, the date of publication is listed, together with a reference to the issue of the **Federal Register** in which the application notice appeared. If the application notice is included in this combined application notice, it is designated by the words "In this issue." The chart also identifies any application notices published elsewhere in this issue of the **Federal Register**. If the application notice is to be published later, it is designated by an estimated date followed by the abbreviation "(est.)."

Application Deadline Dates

All deadline dates announced in this notice or previously announced are listed in Chart 1. Each deadline date announced in this notice is repeated in the appropriate program chart (Charts 2 through 7). Estimated deadline dates for transmitting applications under notices to be published later are also listed in Chart 1 followed by the abbreviation "(est.)." The actual deadline dates for those programs will appear in the respective application notices to be published in the **Federal Register**.

Part II contains fiscal and programmatic information for all programs announced in this notice.

Each principal program office is assigned a separate chart as follows:

Chart 2—Office of Bilingual Education and Minority Languages Affairs.

Chart 3—Office of Educational Research and Improvement.

Chart 4—Office of Elementary and Secondary Education.

Chart 5—Office of Postsecondary Education.

Chart 6—Office of Special Education and Rehabilitative Services.

Chart 7—Office of Vocational and Adult Education.

Each of the charts contains the following information:

- The CFDA number and the name of each affected program.
- The date of availability of applications.
- The deadline date for transmitting applications.
- For any program subject to the requirements of EO 12372 and the

regulations in 34 CFR part 79, the deadline date for transmitting comments under intergovernmental review.

- The estimated range of awards.
- The estimated average size of awards.
- The estimated number of awards

Following the chart for each principal program office are additional details for each affected program, including—

- A brief statement of the purpose of the program;
- A list of eligible applicants;
- A list of regulations applicable to the program;
- Information regarding priorities, if any;
- Supplemental information, if necessary, regarding selection criteria or other matters;
- The project period in months;
- The name, address, and telephone number of the person or office at the Department to contact for applications or information; and
- A citation of the statutory or other legal authority for the program.

These announcements also specify if a program is affected by a notice of priorities, either previously published or published elsewhere in this issue of the **Federal Register,** and inform readers where that notice may be found.

Programs To Be Announced at a Future Date

It is the Secretary's goal to announce as many programs as possible by the date of publication of the combined application notice each year. However, for FY 1993 a number of programs will be governed by new regulations or funding priorities. Some of these programs may be affected by recently enacted legislation. For example, among the programs requiring new regulations as a result of the Higher Education Amendments of 1992 (Pub. L. 102-325, enacted July 23, 1992, 106 Stat. 448) are these: Cooperative Education Program, Patricia Roberts Harris Fellowship Program, Jacob K. Javits Fellowship Program, Strengthening Institutions Program, and Graduate Assistance in Areas of National Need. Other programs may be affected by legislation currently pending in the Congress and may require regulations if that legislation is enacted.

- Since it is the Secretary's general policy not to announce programs on the basis of proposed regulations or funding priorities, the combined application notice references some of these programs with estimated dates (est.) for publication of application notices and deadlines for the submission of applications. Application notices for these programs will be published when final regulations or priorities are completed. Programs expected to be affected by new regulations or funding priorities are marked in the third column of Chart 1 with an asterisk (*) following the abbreviation "est." For further information regarding many of these programs, readers are referred to the following notices of proposed rulemaking and notices of proposed funding priorities that have been published in the **Federal Register:**

National Institute on Disability and Rehabilitation Research—Notice of Proposed Funding Priorities for Fiscal Years 1993–94 for Certain Research and Demonstration Projects	57 FR 25025 (6/12/92)
Library Literacy Program—Notice of Proposed Rulemaking	57 FR 26750 (6/15/92)
Chapter 1 Migrant Education coordination Program for State Educational Agencies—Notice of Proposed Priority for Fiscal Year 1992	57 FR 26832 (6/16/92)
Bilingual Education: Educational Personnel Training Program—Notice of Proposed Priority for Fiscal Year 1993	57 FR 27036 (6/17/92)
National Institute on Disability and Rehabilitation Research—Notice of Proposed Funding Priorities for Fiscal Years 1993–94 for Certain Rehabilitation Research and Training Centers	57 FR 29766 (7/6/92)
Rehabilitation Short-Term Training—Notice of Proposed Priorities for Fiscal Year 1993	57 FR 33240 (7/27/92)
National Institute on Disability and Rehabilitation Research—Notice of Proposed Funding Priorities for Fiscal Years 1993 and 1994 for Rehabilitation Research and Training Centers	57 FR 34024 (7/31/92)
Educational Research Grant Program: Improved Assessments of K–12 Student Performance—Notice of Proposed Priority for Fiscal Years 1993 and 1994	57 FR 34170 (8/3/92)
Special Projects and Demonstrations for Providing Vocational Rehabilitation services to Individuals with Severe Handicaps—Notice of Proposed Priorities for Fiscal Year 1993	57 FR 34472 (8/4/92)
Dwight D. Eisenhower National Program for Mathematics and Science Education—Model Professional Development Program in Mathematics or Science for Elementary and Middle School Teachers—Notice of Proposed Priority for Fiscal Years 1993 and 1994	57 FR 34476 (8/4/92)
Rehabilitation Engineering Centers—Notice of Proposed Funding Priorities for Fiscal Year 1993–94	57 FR 34480 (8/4/92)
Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training, Parent Training, and Information Centers, and Grants to State Educational Agencies and Institutions of Higher Education—Notice of Proposed Rulemaking	57 FR 34620 (8/5/92)
Fund for Innovation in Education Program: State Curriculum Frameworks for English, History, Geography, Civics and Arts Education—Notice of Proposed Priorities for Fiscal Years 1993 and 1994	57 FR 34919 (8/7/92)
Educational Research Grant Program—State Systemic Educational Reforms—Notice of Proposed Priorities for Fiscal Years 1993 and 1994	57 FR 35956 (8/11/92)
Research in Education of Individuals with Disabilities Program; Technology, Educational Media, and Materials for Individuals with Disabilities Program—Notice of Proposed Funding Priorities for Fiscal Years 1993 and 1994	57 FR 40994 (9/8/92)

Available Funds

The Congress has not yet enacted a fiscal year 1993 appropriation for the Department of Education. However, the Department is publishing this notice in order to give potential applicants adequate time to prepare applications. Estimates of the amount of funds available for these programs are based in part on the President's 1993 budget request and in part on the level of funding available for fiscal year 1992. The Department of Education is not bound by any of the estimates in this notice.

National Education Goals and AMERICA 2000

In 1989 the President and the Nation's Governors convened an education summit to set performance goals for educational achievement in America. The summit resulted in the setting of six National Education Goals for the year 2000:

Goal 1: All children in America will start school ready to learn.

Goal 2: The high school graduation rate will increase to at least 90 percent.

Goal 3: American students will leave grades 4, 8, and 12 having demonstrated competency in challenging subject matter, including English, mathematics, science, history, and geography; and every school in America will ensure that

all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

Goal 4: U.S. students will be first in the world in science and mathematics achievement.

Goal 5: Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Goal 6: Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

To further the Nation's efforts to achieve the National Education Goals, the President announced AMERICA 2000 on April 18, 1991. AMERICA 2000 is a comprehensive strategy for transforming American education and helping communities create world-class schools for their children.

AMERICA 2000 calls for the Nation to launch—all at once—four revolutions to create schools that meet the needs of children the way children are growing up today:

- Creating a new generation of break-the-mold, New American Schools.
- Developing world-class standards and a voluntary national examination system.
- Eliminating Federal and State red tape and giving America's teachers and principals the flexibility they need to most effectively operate schools and raise achievement levels.
- Giving families more choice of all schools.

In developing this combined application notice the Department has sought to ensure that programs awarding grants during FY 1993 will further achievement of the Goals, as adopted by the President and the Governors, as well as AMERICA 2000. The Secretary encourages applicants under these programs to review the National Education Goals and AMERICA 2000 in developing their applications.

Applicability of Section 5301 of the Anti-Drug Abuse Act of 1988

A number of programs covered by this combined application notice and listed in Chart 1 provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690; redesignated as section 421 of the Controlled Substances Act, 21 U.S.C. 862) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction.

This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee.

Any persons determined to be ineligible for Federal benefits under the provisions of section 5301 are listed in the General Services Administration's "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs."

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs announced in this notice make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101–647; 28 U.S.C. 3201). The Act provides that if there is a judgment lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

Intergovernmental Review of Federal Programs

Certain programs in this notice are subject to the requirements of EO 12372 and the regulations in 34 CFR part 79. These programs are identified in charts 2 through 7 with a date in the column headed "Deadline for intergovernmental review." For further information, an applicant under a program subject to the Executive order—and other parties interested in that program—are directed to the appendix to this notice.

PART I

CHART 1—LIST OF APPLICATION NOTICES

CFDA No.	Name of program	Application notice	Application deadline date
	Office of Bilingual Education and Minority Languages Affairs		
84.003D	Transitional Bilingual Education Program	In this issue	1/15/93
84.003G	Academic Excellence Program	In this issue	1/22/93
84.003J	Family English Literacy Program	In this issue	11/16/92
84.003K	Special Alternative Instructional Program	In this issue	1/15/93
84.003L	Special Populations Program	In this issue	11/13/92
84.194Q	State Educational Agency Program	In this issue	1/22/93
84.195P	Educational Personnel Training Program	10/2/92 (est.)*	1/27/93 (est.)
84.195T	Fellowship Program	In this issue	1/15/93
84.195V	Short-Term Training Program	In this issue	11/13/92
	Office of Educational Research and Improvement		
	Library Programs		
84.036B	Library Career Training Program—Fellowship Awards	7/28/92 (57 FR 33410)	10/8/92
84.091A	Strengthening Research Library Resources Program	7/28/92 (57 FR 33410)	[1] 10/9/92 [2] 11/20/92
84.163A	Library Services to Indian Tribes and Hawaiian Natives—Basic Grants.	7/28/92 (57 FR 33410)	10/5/92

PART I—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.163B	Library Services to Indian Tribes and Hawaiian Natives—Special Projects.	7/28/92 (57 FR 33410)	4/5/93
84.167A	Library Literacy Program	10/13/92 (est)*	1/8/93 (est.)
84.197A-D	College Library Technology and Cooperation Grants Program	7/28/92 (57 FR 33410)	1/15/93
84.239A	Foreign Language Materials Acquisition Program	7/28/92 (57 FR 33410)	2/19/93
	Fund for the Improvement and Reform of Schools and Teaching (FIRST)		
84.117S	Educational Research Grant Program—State Systemic Educational Reforms.	12/15/92 (est.)*	2/26/93 (est.)
84.168A	Dwight D. Eisenhower National Program for Mathematics and Science—State Curriculum Frameworks for Mathematics and Science.	12/1/92 (est.)*	2/19/93 (est.)
84.168C	Dwight D. Eisenhower National Program for Mathematics and Science—Professional Development for Teachers.	12/1/92 (est.)*	2/19/93 (est.)
84.211B	FIRST—Schools and Teachers Program—School-Level Projects.	3/8/93 (est.)*	5/14/93 (est.)
84.212A	FIRST—Family-School Partnership Program	In this issue	12/7/92
84.215	Secretary's Fund for Innovation in Education (FIE)		
84.215B	FIE—Comprehensive School Health Education Program	In this issue	12/4/92
84.215G	FIE—Innovation in Education Program—State Curriculum Frameworks for English, History, Geography, Civics and Arts Education.	12/15/92 (est.)*	2/26/93 (est.)
	Office of Research		
84.117B	Educational Research Grant Program—Improved Assessments of K-12 Student Performance.	11/16/92 (est.)*	1/19/93 (est.)
84.117E	Educational Research Grant Program—Field-Initiated Studies	In this issue	1/8/93
84.117J	Office of Educational Research and Improvement Fellows Program.	In this issue	12/7/92
	Programs for the Improvement of Practice		
84.073A	National Diffusion Network Program—New Developer Demonstrator Projects.	In this issue	4/9/93
84.073C	National Diffusion Network Program—New State Facilitator Projects.	In this issue	3/8/93
84.073E	National Diffusion Network Program—New Dissemination Process Projects.	In this issue	5/21/93
84.206A	Javits Gifted and Talented Students Education Grant Program	In this issue	2/5/93
	National Center for Education Statistics		
84.999F	National Assessment of Educational Progress (NAEP) Program—1994 Data Collection.	10/16/92 (est.)	12/4/92 (est.)
84.999G	National Assessment of Educational Progress (NAEP) Program—1994 Analysis.	10/16/92 (est.)	12/11/92 (est.)
	Office of Elementary and Secondary Education		
84.004C	Desegregation of Public Education—State Educational Agency Desegregation Program.	In this issue	11/6/92
84.004D	Desegregation of Public Education—Desegregation Assistance Center Program Cooperative Agreement.	7/27/92 (57 FR 33190)	9/22/92
84.061A	Educational Services for Indian Children	In this issue	2/26/93
84.061C	Planning, Pilot, and Demonstration Projects for Indian Children (Planning Projects).	In this issue	2/26/93
84.061D	Planning, Pilot, and Demonstration Projects for Indian Children (Pilot Projects).	In this issue	2/26/93
84.061E	Planning, Pilot, and Demonstration Projects for Indian Children (Demonstration Projects).	In this issue	2/26/93
84.061F	Indian Education—Educational Personnel Development	In this issue	2/26/93
84.062A	Educational Services for Indian Adults	In this issue	2/26/93
84.072A	Indian-Controlled Schools—Enrichment Projects	In this issue	2/26/93
84.083A	Women's Educational Equity Act Program—General Significance Grants.	In this issue	3/12/93
84.083B	Women's Educational Equity Act Program—Challenge Grants	In this issue	3/12/93
84.087A	Indian Fellowship Program	9/14/92 (57 FR 41928)	1/22/93
84.123A	Law-Related Education Program	In this issue	2/5/93
84.141A	High School Equivalency Program	In this issue	2/12/93
84.144A	Chapter 1 Migrant Education Coordination Program	10/30/92 (est.)*	12/15/92 (est.)
84.149A	College Assistance Migrant Program	In this issue	2/12/93
84.165A	Magnet Schools Assistance Program	11/16/92 (est.)*	1/15/93 (est.)
84.184B	Drug-Free Schools and Communities Federal Activities Grants Program.	In this issue	12/9/92
84.207A	Drug-Free Schools and Communities School Personnel Training Grants Program.	In this issue	2/8/93
84.214A	Migrant Education Even Start Program	In this issue	1/20/93

PART I—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.233A	Drug-Free Schools and Communities Emergency Grants Program.	In this issue	1/12/93
84.241A	Drug-Free Schools and Communities Counselor Training Grants Program.	In this issue	2/19/93
84.214A	Migrant Education Even Start Program	In this issue	4/20/93
84.233A	Drug-Free Schools and Communities Emergency Grants Program.	In this issue	1/12/93
84.241A	Drug-Free Schools and Communities Counselor Training Grants Program.	In this issue	2/19/93
84.256A	Territories and Freely Associated States Educational Grants Program.	3/18/93 (est.)*	6/30/93 (est.)
84.258A	Even Start Program—Indian Tribes and Tribal Organizations	In this issue	3/19/93
	Office of Postsecondary Education		
84.016A	Undergraduate International Studies and Foreign Language	8/18/92 (57 FR 37152)	11/2/92
84.017A	International Research and Studies	8/26/92 (57 FR 38678)	11/2/92
84.019A	Fulbright-Hays Faculty Research Abroad	7/24/92 (57 FR 32970)	10/30/92
84.021A	Fulbright-Hays Group Projects Abroad	8/18/92 (57 FR 37151)	10/23/92
84.022A	Fulbright-Hays Doctoral Dissertation Research Abroad	7/24/92 (57 FR 32979)	10/30/92
84.031G	Endowment Challenge Grant Program	In this issue	6/14/93
84.031H	Strengthening Institutions Program and Endowment Challenge Grant Program—Designation as an Eligible Institution.	9/23/92 (est.)	11/18/92 (est.)
84.042A	Student Support Services	9/15/92 (57 FR 42559)	11/13/92
84.097A	Law School Clinical Experience Program	10/19/92 (est.)	1/22/93 (est.)
84.120	Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects.	In this issue	12/4/92
84.153A	Business and International Education	8/18/92 (57 FR 37152)	11/9/92
84.202A	Women and Minority Participation in Graduate Education	9/30/92 (est.)	11/16/92 (est.)
84.219A	Student Literacy and Mentoring Corps Program	1/4/93 (est.)	3/19/93 (est.)
84.220A	Centers for International Business Education	In this issue	2/19/93
84.229A	Language Resource Centers Program	In this issue	3/1/93
	Fund for the Improvement of Postsecondary Education (FIPSE)		
84.116A	Comprehensive Program (Preapplications)	9/11/92 (57 FR 41736)	10/27/92
84.116B	Comprehensive Program (Applications) [3]	9/11/92 (57 FR 41736)	3/5/93
84.116F	Fund for the Improvement of Postsecondary Education—Innovative Projects for Student Community Service.	2/10/93 (est.)*	4/7/93 (est.)
84.116J	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Higher Education Cooperation and Exchange between the United States and the European Community).	2/3/93 (est.)	6/1/93 (est.)
84.183A	Drug Prevention Programs in Higher Education—Institution-Wide Program.	In this issue	1/19/93
84.183B	Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program.	In this issue	4/5/93
84.183D	Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention).	In this issue	2/17/93
84.183E	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects.	In this issue	1/19/93
84.183F	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects.	In this issue	1/19/93
	Office of Special Education and Rehabilitative Services *Office of Special Education Programs*		
84.023A	Advancing and Improving the Research Knowledge Base	9/15/92 (57 FR 42560)	2/12/93
84.023B	Student-Initiated Research Projects	9/15/92 (57 FR 42560)	11/13/93
84.023C	Field-Initiated Research Projects	9/15/92 (57 FR 42560)	11/13/93
84.023N	Initial Career Awards	9/15/92 (57 FR 42561)	1/8/93
84.023P	Increasing Participation in General Education Development Programs among Youth with Disabilities.	1/15/93 (est.)*	3/26/93 (est.)
84.023R	Including Children with Disabilities as Part of Systemic Efforts to Restructure Schools.	9/15/92 (57 FR 42561)	12/11/92
84.023T	Enhancing Language Acquisition among Students Who Are Deaf or Hard of Hearing.	1/15/93 (est.)*	3/25/93 (est.)
84.024B	Early Childhood Model Demonstration	In this issue	11/16/92
84.024D	Outreach Projects	In this issue	12/11/92
84.024J	State Data Systems	9/17/92	3/8/93
84.024P	Training of Early Intervention Services Providers through Training Faculty from Institutions of Higher Education.	10/15/92 (est.)*	1/11/93 (est.)
84.025C	Technical Assistance to State and Multi-State Deaf-Blind Projects.	8/25/92 (57 FR 38488)	2/8/93
84.025D	Model Demonstration Projects	3/12/93 (est.)	5/28/93 (est.)
84.026F	Closed-Captioned Movies, Mini-Series, and Special Programs Broadcast during Prime-Time.	In this issue	3/3/93
84.026J	Close-Captioned Syndicated Television Programming	In this issue	5/5/93
84.026M	Symposium on Educational Media Technology Relating to Persons with Sensory Disabilities.	In this issue	1/19/93

PART I—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.026P	Closed-Captioned National News and Public Information Programs.	In this issue	2/10/93
84.026R	Special Research, Development, and Evaluation Projects	In this issue	4/27/93
84.026T	Cultural Experiences for Deaf and Hard of Hearing Individuals	In this issue	2/1/93
84.026V	Closed-Captioned Children's Programs	In this issue	4/21/93
84.028A	Regional Resource Centers	10/30/92 (est.)	1/22/93 (est.)
84.029A	Training Personnel to Serve Low-Incidence Disabilities	12/11/92 (est.)*	2/16/93 (est.)
84.029B	Preparation of Personnel for Careers in Special Education	7/24/92 (57 FR 33068)	10/19/92
84.029C1	Personnel Development Partnerships	12/11/92 (est.)*	2/16/93 (est.)
84.029D	Preparation of Leadership Personnel	7/24/92 (57 FR 33068)	10/19/92
84.029E	Preparation of Minority Personnel	12/11/92 (est.)*	2/16/93 (est.)
84.029F	Preparation of Related Services Personnel	7/24/92 (57 FR 33068)	9/18/92
84.029K	Special Projects	7/24/92 (57 FR 33068)	11/30/92
84.029M	Parent Training and Information Centers	7/24/92 (57 FR 33068)	9/15/92
84.029Q	Training Early Intervention and Preschool Personnel	7/24/92 (57 FR 33068)	9/18/92
84.029V	State Educational Agency Programs	12/11/92 (est.)*	2/16/93 (est.)
84.030A	National Information Center for Children and Youth with Disabilities.	8/18/92 (57 FR 37360)	1/15/93
84.030C	National Clearinghouse on Postsecondary Education of Disabled Individuals.	8/18/92 (57 FR 37360)	1/15/93
84.030E	National Clearinghouse on Careers and Employment in Special Education.	8/18/92 (57 FR 37360)	1/15/93
84.078C	Career Placement Opportunities for Students with Disabilities in Postsecondary Programs.	8/25/92 (57 FR 38489)	5/3/93
84.086D	Developing Innovations for Education—Children with Severe Disabilities Full-Time in General Education Classrooms.	8/25/92 (57 FR 38488)	12/4/92
84.086J	Statewide Systems Change	8/25/92 (57 FR 38488)	12/11/92
84.086R	Model Inservice Training Projects	8/25/92 (57 FR 38488)	12/11/92
84.086U	Outreach Serving Students with Severe Disabilities in Integrated Environments.	8/25/92 (57 FR 38488)	1/29/93
84.158D	Model Demonstration Projects to Identify, Recruit, Train and Place Youth with Disabilities Who Have Dropped Out of School.	8/25/92 (57 FR 38489)	4/9/93
84.158K	Model Demonstration Projects to Identify and Teach Skills Necessary for Self Determination.	8/25/92 (57 FR 38489)	1/22/93
84.158P	Research Projects on the Transition of Special Populations to Integrated Postsecondary Environments.	8/25/92 (57 FR 38489)	12/11/92
84.159A	State Agency-Federal Evaluation Studies Projects	9/15/92 (57 FR 42562)	1/15/93
84.159F	State Agency-Federal Evaluation Studies Projects—Feasibility	9/15/92 (57 FR 42562)	1/15/93
84.180E	Demonstrating and Evaluating the Benefits of Educational Innovations Using Technology.	9/17/92	11/30/92
84.180G	Technology, Educational Media, and Materials Research Projects that Promote Literacy.	9/17/92	11/30/92
84.180J	Application of Assistive Technology for Students Who Are Deaf or Hard of Hearing.	12/21/92 (est.)*	3/12/93 (est.)
84.237D	Development and Support for Enhancing Professional Knowledge, Skills, and Strategies.	9/17/92	3/19/93
	National Institute on Disability and Rehabilitation Research		
84.133A-2	Research and Demonstration Projects	12/18/92 (est.)*	3/31/93 (est.)
84.133A-3	Research and Demonstration Projects	In this issue	5/28/93
84.133B	Rehabilitation Research and Training Centers	9/30/92 (est.)*	11/25/92
84.133B	Rehabilitation Research and Training Centers	11/16/92 (est.)*	1/15/93 (est.)
84.133B	Rehabilitation Research and Training Centers	12/15/92 (est.)*	2/16/93 (est.)
84.133D	Knowledge Dissemination and Utilization Program	8/18/92 (57 FR 37338)	2/23/93
84.133E	Rehabilitation Engineering Centers	11/13/92 (est.)*	1/15/93 (est.)
84.133F	Rehabilitation Research Fellowships Program	8/18/92 (57 FR 37338)	10/5/92
84.133G	Field-Initiated Research	8/18/92 (57 FR 37338)	10/5/92
84.133P	Research Training and Career Development Program	8/18/92 (57 FR 37338)	10/5/92
84.224A	State Grants for Technology-Related Assistance for Individuals with Disabilities.	In this issue	4/16/93
	Rehabilitation Services Administration		
84.128A	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects.	6/12/92 (57 FR 25025)	9/1/92
84.128G	Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Handicaps.	In this issue	11/30/92
84.128J	Projects for Initiating Special Recreation Programs for Individuals with Handicaps.	4/15/93 (est.)*	6/1/93 (est.)
84.129A-1	Rehabilitation Long-Term Training—Rehabilitation Medicine	In this issue	11/30/92
84.129A-5	Rehabilitation Long-Term Training—Prosthetics and Orthotics	In this issue	11/30/92
84.129B	Rehabilitation Long-Term Training—Rehabilitation Counseling	In this issue	2/3/93
84.129C-1	Rehabilitation Long-Term Training—Rehabilitation Facility Administration.	In this issue	11/30/92
84.129C-3	Rehabilitation Long-Term Training—Rehabilitation Administration.	In this issue	11/30/92

PART I—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.129D	Rehabilitation Long-Term Training—Occupational Therapy	In this issue	11/30/92
84.129E	Rehabilitation Long-Term Training—Rehabilitation Engineering	In this issue	11/30/92
84.129F	Rehabilitation Long-Term Training—Vocational Evaluation and Work Adjustment.	In this issue	11/30/92
84.129G	Rehabilitation Long-Term Training—Rehabilitation Workshop and Facility Personnel.	In this issue	11/30/92
84.129H	Rehabilitation Long-Term Training—Rehabilitation of the Mentally Ill.	In this issue	11/30/92
84.129K	Rehabilitation Long-Term Training—Specialized Personnel for Supported Employment.	In this issue	11/30/92
84.129L	Rehabilitation Long-Term Training—Undergraduate Education in Rehabilitation Services.	In this issue	11/30/92
84.129M	Rehabilitation Long-Term Training—Independent Living	In this issue	11/30/92
84.129P	Rehabilitation Long-Term Training—Rehabilitation of the Blind	In this issue	11/30/92
84.129Q	Rehabilitation Long-Term Training—Rehabilitation of the Deaf	In this issue	11/30/92
84.129R	Rehabilitation Long-Term Training—Rehabilitation Job Development and Placement.	In this issue	11/30/92
84.129T	Rehabilitation Training—Experimental and Innovative Training	In this issue	11/23/92
84.129U	Rehabilitation Training—Rehabilitation Continuing Education Programs.	8/6/92 (57 FR 34766)	10/1/92
84.129V	Rehabilitation Training—State Vocational Rehabilitation Unit In-service Training.	In this issue	4/1/93
84.132A	Centers for Independent Living	12/14/92 (est.)	6/25/93 (est.)
84.234K	Projects with Industry	In this issue	11/30/92
84.235C	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Non-Priority.	In this issue	11/30/92 (est.)
84.235F	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Low Functioning Adults Who Are Deaf or Hard of Hearing.	10/28/92 (est.)*	1/11/93 (est.)
84.235M	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Model Systems of Collaboration to Assist in the Training and Employment of Individuals Who Are Disabled Due to the Abuse of Drugs Other than Alcohol.	10/28/92 (est.)*	1/11/93 (est.)
84.235N	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Functional Assessment of Individuals with Cognitive Disabilities.	10/28/92 (est.)*	1/11/93 (est.)
84.235P	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Linkages between State Vocational Rehabilitation Agencies and Consumer-Run Programs for Individuals with Severe Mental Illness.	10/28/92 (est.)*	1/11/93 (est.)
84.235Q	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Transition Rehabilitation Services for Handicapped Youth with Special Needs.	In this issue	11/30/92
84.246D	Rehabilitation Short-Term Training—Functional Assessment of Individuals with Cognitive Disabilities.	10/28/92 (est.)*	12/30/92 (est.)
84.246E	Rehabilitation Short-Term Training—Training Rehabilitation Practitioners and Educators on Provisions of the Individuals with Disabilities Education Act (IDEA).	10/28/92 (est.)*	12/30/92 (est.)
84.250C	Vocational Rehabilitation Service Projects for American Indians with Handicaps.	In this issue	11/30/92
	Office of Vocational and Adult Education		
84.051	National Center or Centers for Research in Vocational Education.	7/10/92 (57 FR 30836)	9/4/92
84.077	Bilingual Vocational Training Program	In this issue	12/11/92
84.099	Bilingual Vocational Instructor Training Program	In this issue	12/11/92
84.101A	Indian Vocational Education Program	6/16/92 (57 FR 26904)	7/30/92
84.101C	Native Hawaiian Vocational Education Program	In this issue	4/16/93
84.192	Adult Education for the Homeless Program	3/24/92 (57 FR 10159)	6/5/92
84.198	National Workplace Literacy Program	6/5/92 (57 FR 24130)	7/10/92
84.244	Business and Education Standards Program	9/30/92 (est.)	11/30/92 (est.)
84.255	Functional Literacy for State and Local Prisoners Program	6/5/92 (57 FR 24112)	7/21/92

[1] For institutions needing to establish eligibility (Part I only).
[2] For all project descriptions (Part II).
[3] Applicants for 84.116B must submit preapplications under 84.116A by 10/14.92.

PART II

The following Charts 2 through 7 contain fiscal and programmatic information about each of the programs announced in this notice. Each chart is followed by additional information regarding these programs.

CHART 2.—OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.003D Transitional Bilingual Education Program	10/5/92	1/15/93	3/16/93	$75,000–300,000	$175,000	57
84.003G Academic Excellence Program	10/21/92	1/22/93	3/23/93	100,000–200,000	150,000	10
84.003J Family English Literacy Program	9/28/92	11/16/92	1/15/93	50,000–150,000	125,000	4
84.003K Special Alternative Instructional Program	10/5/92	1/15/93	3/16/93	75,000–300,000	175,000	57
84.003L Special Populations Program	9/28/92	11/13/92	1/12/93	45,000–180,000	135,000	19
84.194Q State Educational Agency Program	10/30/92	1/22/93	3/23/93	N/A	75,000	10
84.195T Fellowship Program	10/16/92	1/15/93	N/A	2,000–26,000 (per indiv. fellow)	12,000 (per indiv. fellow)	375 (indiv. fellowships)
84.195V Short-Term Training Program	9/28/92	11/13/92	1/12/93	40,000–120,000	100,000	5

84.003D Transitional Bilingual Education Program

Purpose of Program: To provide assistance to establish, operate, or improve programs of transitional bilingual education for limited English proficient (LEP) children.

Eligible Applicants: Local educational agencies (LEAs); and institutions of higher education, including junior or community colleges, that apply jointly with one or more LEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 501.

Priority: The priority in the notice of final priority for this program, published in the **Federal Register** on September 2, 1992 (57 FR 40300), applies to this competition.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 501.31.

In addition to the maximum of 100 points awarded under 34 CFR 501.31, the program regulations in 34 CFR 501.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 501.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 501.32(a)(1))—4 points.

(2) The relative need of the particular LEA(s) for the proposed program (34 CFR 501.32(a)(2))—4 points.

(3) The geographical distribution of LEP children. The Secretary considers the need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 501.32(a)(3))—3 points.

(4) The number and proportion of children from low-income families to be benefited by the program (34 CFR 501.32(a)(4))—4 points.

Project Period: 36 months.

For Applications or Information Contact: Luis A. Catarineau, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6641. Telephone: (202) 205–9700.

Program Authority: 20 U.S.C. 3291.

84.003G Academic Excellence Program

Purpose of Program: To provide assistance to identify and disseminate effective bilingual education practices for limited English proficient (LEP) students.

Eligible Applicants: Local educational agencies; institutions of higher education, including junior or community colleges; and nonprofit private organizations applying separately or jointly.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 524.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 524.31.

In addition to the maximum of 100 points awarded under 34 CFR 524.31, the program regulations in 34 CFR 524.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 524.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) How dissemination and adoption of the model program would relate to—

(i) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 524.32(a)(1)(i))—4 points.

(ii) The need to provide funding according to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 524.32(a)(1)(ii))—10 points.

(2) The relative numbers of children from low-income families likely to be benefited by the project (34 CFR 524.32(a)(2))—1 point.

Project Period: 36 months.

For Applications or Information Contact: Dr. Mary T. Mahony, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6642. Telephone: (202) 205–8722.

Program Authority: 20 U.S.C. 3291.

84.003J Family English Literacy Program

Purpose of Program: To provide assistance to establish, operate, and improve family English literacy programs for limited English proficient (LEP) persons and their families.

Eligible Applicants: Local educational agencies; institutions of higher education, including junior or community colleges; and nonprofit private organizations, applying separately or jointly.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 525.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Facilitating Achievement of LEP Children in Grades 4–6. Instruction in methods by which parents and family members can facilitate the educational achievement of LEP children in one or more grade levels from grade 4 through grade 6.

This priority focuses on facilitating the educational achievement of LEP children in grades 4–6 because most past projects under this program have focused on facilitating the educational achievement of LEP children in lower grade levels.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 525.31.

In addition to the maximum of 100 points awarded under 34 CFR 525.31, the program regulations in 34 CFR 525.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 525.32(a). For this competition that Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 525.32(a)(1))—4 points.

(2) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 525.32(a)(2))—6 points.

(3) The need for financial assistance to establish, operate, or improve programs for limited English proficient persons (34 CFR 525.32(a)(3))—3 points.

(4) The relative numbers of children from low-income families sought to be benefited by the program (34 CFR 525.32(a)(4))—2 points.

Project Period: 36 months.

For Applications or Information Contact: Dr. Mary T. Mahony, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5086, Switzer Building, Washington, DC 20202–6642. Telephone: (202) 205–8722.

Program Authority: 20 U.S.C. 3291.

84.003K Special Alternative Instructional Program

Purpose of Program: To provide assistance to establish, operate, or improve special alternative instructional programs for limited English proficient (LEP) children.

Eligible Applicants: Local educational agencies (LEAs); and institutions of higher education, including junior or community colleges, that apply jointly with one or more LEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 501.

Priority: The priority in the notice of final priority for this program, published in the **Federal Register** on September 2, 1992 (57 FR 40300), applies to this competition.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 501.31.

In addition to the maximum of 100 points awarded under 34 CFR 501.31, the program regulations in 34 CFR 501.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 501.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 501.32(a)(1))—4 points.

(2) The relative need of the particular LEA(s) for the proposed program (34 CFR 501.32(a)(2))—4 points.

(3) The geographical distribution of LEP children. The Secretary considers the need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 501.32(a)(3))—3 points.

(4) The number and proportion of children from low-income families to be benefited by the program (34 CFR 501.32(a)(4))—4 points.

In addition to the 15 points distributed among the factors listed in 34 CFR 501.32(a), the program regulations in 34 CFR 501.33(b) provide that the Secretary may distribute 5 additional points among the factors listed in 34 CFR 501.33(a). For this competition the Secretary distributes the 5 additional points as follows:

(1) The administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language (34 CFR 501.33(a)(1))—2 points.

(2) The unavailability of personnel qualified to provide bilingual instructional services (34 CFR 501.33(a)(2))—2 points.

(3) The presence of a small number of LEP students in the LEA's schools and the LEA's inability to obtain native language teachers because of isolation or regional location (34 CFR 501.33(a)(3))—1 point.

Project Period: 36 months.

For Applications or Information Contact: Robert M. Trifiletti, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6641. Telephone: (202) 205–9700.

Program Authority: 20 U.S.C. 3291.

84.003L Special Populations Program

Purpose of Program: To provide assistance to preschool, special education, and gifted and talented programs for limited English proficient (LEP) children that are preparatory or supplementary to programs such as those assisted under the Bilingual Education Act.

Eligible Applicants: Local educational agencies; institutions of higher education, including junior or community colleges; and nonprofit private organizations.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 526.

Priority: Under 34 CFR 75.105(c)(2) and 34 CFR 526.30(a) the Secretary gives preference to applications that meet the following competitive priority. The Secretary may select an application that meets this competitive priority over applications of comparable merit that do not meet the priority:

Preschool Projects for LEP Children. Projects that establish, operate, and improve preparatory or supplementary programs for LEP children who have not reached elementary school age.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 526.32.

In addition to the maximum of 100 points awarded under 34 CFR 526.32, the program regulations in 34 CFR 526.31(b) and 34 CFR 525.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 525.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 525.32(a)(1))—5 points.

(2) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 525.32(a)(2))—6 points.

(3) The need for financial assistance to establish, operate, or improve programs for limited English proficient persons (34 CFR 525.32(a)(3))—1 point.

(4) The relative numbers of children from low-income families sought to be benefited by the program (34 CFR 525.32(a)(4))—3 points.

Project Period: 36 months.

For Applications or Information Contact: Barbara J. Wells, U.S. Department of Education, 400 Maryland Avenue, SW., room 5627, Switzer Building, Washington, DC 20202–6642. Telephone: (202) 205–8840.

Program Authority: 20 U.S.C. 3291

84.194Q State Educational Agency Program

Purpose of Program: To provide assistance to collect, aggregate, analyze, and publish data and information on limited English proficient persons and to improve the effectiveness of bilingual education programs.

Eligible Applicants: State educational agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 548.

Project Period: Up to 36 months.

For Applications or Information Contact: Harpreet K. Sandhu, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6641. Telephone: (202) 205–9808.

Program Authority: 20 U.S.C. 3302.

84.195T Fellowship Program

Purpose of Program: To provide assistance, through approved institutions of higher education, to full-time students pursuing a graduate degree in areas related to programs for limited English proficient persons.

Eligible Applicants: Institutions of higher education (IHEs). Any individual wishing to obtain a fellowship must apply to an IHE approved for participation in this program, not to the U.S. Department of Education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 562.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Doctoral Programs of Study. Applications proposing programs of study that lead to a doctoral degree.

Project Period: Up to 36 months.

For Applications or Information Contact: Joyce M. Brown, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6642. Telephone: (202) 205–9727 or (202) 205–9729.

Program Authority: 20 U.S.C. 3323.

84.195V Short-Term Training Program

Purpose of Program: To provide assistance to improve the skills of educational personnel and parents participating in programs for limited English proficient (LEP) persons.

Eligible Applicants: Local educational agencies (LEAs); State educational agencies (SEAs); and institutions of higher education, including junior or community colleges, and for-profit or nonprofit private organizations that apply (1) after consultation with one or more LEAs or SEAs or (2) jointly with one or more LEAs or SEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 574.

Priorities:

Competitive Priority. Under 34 CFR 75.105(c) and 34 CFR 574.30(a) the Secretary gives preference to applications that meet the following competitive priority. An application that meets this competitive priority is selected by the Secretary over applications of comparable merit that do not meet the priority:

Instructional Competence of Teachers. Training designed to improve the instructional competence of teachers in carrying out their responsibilities in programs for LEP persons (34 CFR 574.10(a)).

Invitational Priorities: Within the competitive priority specified in this notice, the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Regular Elementary Classroom Teachers. Training designed to improve the competence of teachers in regular classrooms in providing instruction to LEP students at elementary grade levels.

Invitational Priority 2—Teachers of Secondary Core Subjects. Training designed to improve the competence of teachers in providing instruction in mathematics, science, English, history, and geography to LEP students at secondary grade levels.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 574.32.

In addition to the maximum of 100 points awarded under 34 CFR 574.32, the program regulations in 34 CFR 574.33(b) provide that the Secretary distributes 10 additional points among the factors listed in 34 CFR 574.33(a). For this competition the Secretary distributes the 10 additional points as follows:

(1) Evidence of prior participants' success in serving LEP children in accordance with needs identified in the prior project (34 CFR 574.33(a)(1))—1 point.

(2) Evidence of demonstrated capacity and cost effectiveness as provided in 34 CFR 574.32(d) and (f) (34 CFR 574.33(a)(2))—9 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Petraine A. Johnson, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6642. Telephone: (202) 205–8722.

Program Authority: 20 U.S.C. 3321.

CHART 3.—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
Library Programs						
All programs have been announced or are to be announced at a later date (see Chart 1).						
Fund for the Improvement and Reform of Schools and Teaching (FIRST)						
84.212A FIRST—Family-School Partnership Program	10/23/92	12/7/92	2/8/93	$50,000–150,000	$100,000	16
84.215B FIE—Comprehensive School Health Education Program	10/19/92	12/4/92	2/4/93	50,000–150,000	100,000	12

CHART 3.—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT—Continued

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
Office of Research						
84.117E Educational Research Grant Program—Field-Initiated Studies	10/19/92	1/8/93	N/A	50,000–90,000	80,000	25
84.117J Office of Educational Research and Improvement Fellows Program	N/A	12/7/92	N/A	25,000–45,000 (per indiv. fellow)	35,000 (per indiv. fellow)	3 (indiv. fellowships)
Programs for the Improvement of Practice						
84.073A National Diffusion Network—New Developer Demonstrator Projects	2/19/93	4/9/93	6/8/93	$60,000–100,000	$75,000	27
84.073C National Diffusion Network—New State Facilitator Projects	1/15/93	3/8/93	5/7/93	65,000–125,000	118,000	4
84.073E National Diffusion Network—New Dissemination Process Projects	3/15/93	5/21/93	7/20/93	90,000–120,000	105,000	2
84.206A Javits Gifted and Talented Students Education Grant Program	11/6/92	2/5/93	4/6/93	100,000–250,000	200,000	13
National Center for Education Statistics						

All programs are to be announced at a later date (see Chart 1).

84.212A Fund for the Improvement and Reform of Schools and Teaching (FIRST)—Family-School Partnership Program

Purpose of Program: To increase the involvement of families in improving the educational achievement of their children at the preschool, elementary, and secondary education levels.

Eligible Applicants: Local educational agencies (LEAs) eligible to receive a grant under Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

Note: This program is conducting a two-phase application process for FY 1993. The preapplication phase is open to all eligible applicants. A preapplication, not exceeding eight pages, should describe the proposed project. The Secretary evaluates the preapplication on the basis of the selection criteria in 34 CFR 758.21.

LEAs whose preapplications are ranked highest will be asked to submit full applications (25 pages plus appendices) to ensure that projects selected for grants are of high quality. The number of full applications to be requested will be approximately three times the number of planned awards. The time allowed for preparation of a full application will be at least 45 days from the date a request for a full application is mailed to an applicant.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 758.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3), 758.4(d), and 758.5(a) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Innovative family-school partnership activities designed to provide training for families on the family's educational responsibilities.

Invitational Priorities. Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1), an application that meets one or more of the following invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Projects designed to address the unique needs of families in improving the educational achievement of at-risk children.

Invitational Priority 2—Projects designed to develop materials and strategies to reinforce learning at home and assist in implementing other home-based educational activities that extend classroom instruction.

Supplementary Information: The Secretary is interested in projects that also have the potential to be disseminated by the National Diffusion Network (NDN). NDN is a dissemination system through which proven exemplary educational programs and processes are made available to interested school systems or other educational institutions around the country. To become eligible for dissemination by NDN, a project must be proven to be effective. A grantee interested in having its project disseminated must collect evidence of project effectiveness and present the evidence to the Department's Program Effectiveness Panel (PEP). Projects that are judged effective by PEP become eligible to compete for dissemination funds from NDN.

Therefore, the Secretary encourages applicants who are interested in having their projects disseminated by NDN to include an evaluation plan that would assess the effectiveness and impact of project activities with emphasis on changes in school practices and student performance.

Project Period: Up to 36 months.

For Applications or Information Contact: Diane Hill, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524. Telephone: (202) 219–1496.

Program Authority: 20 U.S.C. 4821–4823.

84.215B Fund for Innovation in Education (FIE)—Comprehensive School Health Education Program

Purpose of Program: To encourage the provision of comprehensive school health education for elementary and secondary students.

Eligible Applicants: State educational agencies (SEAs); local educational agencies (LEAs); and SEAs or LEAs in collaboration with other entities of their choice, such as institutions of higher education, private schools, and other public and private agencies, organizations, and institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for

Student Rights in Research, Experimental Programs, and Testing in 34 CFR part 98.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects in which schools work in partnerships with families and the community on comprehensive school health education for grades K–8.

Within this invitational priority the Secretary invites applications that address the following two areas:

(a) Applications for demonstration or teacher professional development programs that include new approaches to curriculum, instruction, and assessment in elementary schools (K–8).

(b) Applications for projects in elementary schools (K–8) to provide teachers and administrators with inservice professional development to assist in the implementation of new comprehensive school health education programs.

Supplementary Information: The Comprehensive School Health Education Program supports projects in comprehensive school health education that are broad in scope and cover a wide range of health topics. Topics may include: personal health and fitness, nutrition, mental and emotional health, prevention of chronic disease, substance use and abuse, accident prevention and safety, community and environmental health, prevention and control of communicable diseases, effective use of health services delivery systems, and development and aging.

The Secretary is interested in projects that also have the potential to be disseminated by the National Diffusion Network (NDN). NDN is a dissemination system through which proven exemplary educational programs and processes are made available to interested school systems or other educational institutions around the country. To become eligible for dissemination by NDN, a project must be proven to be effective. A grantee interested in having its project disseminated must collect evidence of project effectiveness and present the evidence to the Department's Program Effectiveness Panel (PEP). Projects that are judged effective by PEP become eligible to compete for dissemination funds from NDN.

Therefore, the Secretary encourages applicants who are interested in having their projects disseminated by NDN to include an evaluation plan that would assess the effectiveness and impact of project activities with emphasis on changes in school practices and student behavior.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in EDGAR, 34 CFR 75.210.

The regulations in 34 CFR 75.210(c) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes these 15 points as follows:

Evaluation Plan (34 CFR 75.210(b)(6)). Fifteen points are added to this criterion for a possible total of 20 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Shirley Jackson, U.S. Department of Education, 555 New Jersey Avenue, NW., room 300–Q, Washington, DC 20208–5524. Telephone (202) 219–1556.

Program Authority: 20 U.S.C. 3151, 3155.

84.117E Educational Research Grant Program—Field-Initiated Studies

Purpose of Program: To support field-initiated studies designed to advance educational theory and practice.

Eligible Applicants: Institutions of higher education; public and private organizations, institutions, and agencies; and individuals.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 700.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 700.22.

The program regulations in 34 CFR 700.20(b)(2) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 25 points. For this competition the Secretary distributes the 25 points as follows:

Significance (34 CFR 700.22(f)). Fifteen points are added to this criterion for a possible total of 30 points.

Technical soundness (34 CFR 700.22(g)). Ten points are added to this criterion for a possible total of 25 points.

Supplementary Information: Under 34 CFR 700.23(b) the Secretary is required to determine whether the field-initiated applications propose activities that address educational problems of national importance. The following paragraphs contain examples of educational topics that address problems that the Secretary considers to be of national importance. Note, however, that (1) these topics are examples only; (2) the Secretary also considers many other educational topics to be of national importance; and (3) the Secretary does not give competitive preference to applications that propose research activities based on these examples.

The following are some examples of educational topics:

1. Helping parents support the learning of their young children.

2. Improving the education of children whose circumstances put them at a disadvantage.

3. Identifying factors that will lead to greater student learning, at any stage from birth through post-secondary and graduate education.

4. Identifying how school organization affects student achievement.

5. Determining the impact of high standards and rigorous curriculum on student achievement.

Project Period: Up to 18 months.

For Applications or Information Contact: Delores Monroe, U.S. Department of Education, 555 New Jersey Avenue, NW., room 620, Washington, DC 20208–5646. Telephone: (202) 219–2223.

Program Authority: 20 U.S.C. 1221e.

84.117J Office of Educational Research and Improvement Fellows Program

Purpose of Program: To provide Federal financial assistance enabling individuals to make contributions to the improvement of education by engaging in educational research at the Office of Educational Research and Improvement (OERI) in Washington, DC.

Eligible Applicants: Individuals who have training and experience indicating that they have the potential to conduct educational research. An individual must be a citizen of the United States to be eligible for a fellowship.

Applicable Regulations: The regulations for this program in 34 CFR part 762.

Selection Criteria: In selecting fellows under this program, the Secretary rates applications using the criteria in 34 CFR 762.21 and then determines the order in which the applications will be selected. The Secretary uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of the plan for the proposed activity* (40 points). The Secretary reviews the quality of each proposed project to ensure that—

(1) The design of the project is of high quality;

(2) The applicant's project relates to the purposes of the fellowship program; and

(3) The applicant's project is feasible.

(b) *Significance of the proposed project* (20 points). The Secretary assesses the significance of each proposed project to ensure that—

(1) The project addresses important issues in American education;

(2) Project results will benefit American education; and

(3) The project will enhance educational practice.

(c) *Qualifications of the applicant* (40 points). The Secretary reviews the qualifications of each applicant to ensure—

(1) The appropriateness and quality of the education and experience of the applicant as they may be related to the proposed project; and

(2) Demonstrated ability to produce a final product that is comprehensive and useful.

Application Forms: The Department has no application forms or prescribed format for applications under the Fellows Program. To be considered for a fellowship, an individual must submit a written request. Each applicant is encouraged to submit sufficient information to allow the Secretary to determine the merits of the proposed activities under the criteria in 34 CFR 762.21. The applicant is encouraged to submit his or her curriculum vitae, a detailed project description containing the design of the research proposal and specific activities he or she will undertake while in Washington, DC, and a proposed budget for the project.

Supplementary Information: Under 34 CFR 762.21(b)(1) the Secretary assesses the significance of each proposed project to ensure that the project addresses important issues in American education. The following paragraphs contain examples of educational topics that address issues the Secretary considers to be important in American education. Note, however, that (1) these topics are examples only; (2) the Secretary also considers many other educational topics to be important issues in American education; and (3) the Secretary does not give competitive preference to applications that propose research activities based on these examples.

The following are some examples of educational topics:

1. Helping parents support the learning of their young children.

2. Improving the education of children and youth whose circumstances put them at a disadvantage.

3. Identifying factors that will lead to greater student learning at any stage from birth through postsecondary and graduate education.

4. Identifying how school or college organization and environment affect student achievement.

Project Period: Each project is for a period of no fewer than four months and not more than 12 months of full-time activity or the equivalent if less than full-time participation.

Note: The amount of a fellowship includes a stipend based on the fellow's current annual salary prorated for the length of the fellowship. If a fellow has no current salary, the amount of the fellowship includes a stipend based on the fellow's education and experience. In addition, the fellowship includes a subsistence allowance and necessary travel expenses related to the fellowship.

Instructions for Transmittal of Applications: (a) An individual who wants to apply for an award shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, 400 Maryland Avenue, SW., Washington, DC 20202–4725; or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC, time) to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, room 3633, Regional Office Building #3, Seventh and D Streets, SW., Washington, D.C.

(b) An application must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with his or her local post office.

(2) The Application Control Center will mail an Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the closing date, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope the CFDA number and letter of this competition.

For Information Contact: Dr. Jeffrey Gilmore, U.S. Department of Education, 555 New Jersey Avenue, NW., room 615, Washington, DC 20208–5647. Telephone: (202) 219–2243.

Program Authority: 20 U.S.C. 1221e.

84.073A National Diffusion Network Program—New Developer Demonstrator Projects

Purpose of Program: To provide grants to disseminate, to new sites nationwide, exemplary education programs that have been previously approved by the Department of Education's Program Effectiveness Panel (PEP).

Eligible Applicants: Public or nonprofit private agencies, organizations, or institutions that have developed programs, products, or practices that (a) have approval by PEP or the Joint Dissemination Review Panel and (b) are in use in sites that can be visited.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR parts 785 and 786.

Priorities: Under 34 CFR 75.105(c)(3) and 786.3(b) the Secretary gives an absolute preference to applications that meet the following priorities:

Applications proposing projects in English, mathematics, science, history, and geography. The Secretary intends to reserve $1,000,000 to fund applications that meet these priorities. The Secretary may adjust this amount if the Secretary does not receive sufficient high-quality applications addressing these priorities to use the funds reserved. The Secretary uses the remainder of the funds to support applications in any other subject areas listed in 34 CFR 786.3(b).

Project Period: Up to 48 months.

For Applications or Information Contact: Carolyn S. Lee, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208–5645. Telephone: (202) 219–2156.

Program Authority: 20 U.S.C. 2962.

84.073C National Diffusion Network Program—New State Facilitator Projects

Purpose of Program: To provide grants to disseminate exemplary educational programs within the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Eligible Applicants: Public or nonprofit private agencies, organizations, or institutions located in the territory to be served.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85

and 86; (b) The regulations for Student Rights in Research, Experimental Activities, and Testing in 34 CFR part 98; and (c) The regulations for this program in 34 CFR parts 785 and 788.

Project Period: Up to 36 months.

For Applications or Information Contact: Thomas Wikstrom, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208–5645. Telephone: (202) 219–1589.

Program Authority: 20 U.S.C. 2962.

84.073E National Diffusion Network Program—New Dissemination Process Projects

Purpose of Program: To provide grants to disseminate, to new sites nationwide, information, instructional materials, and services concerning specific content areas, bodies of research, or fields of professional development that have been previously approved by the Department of Education's Program Effectiveness Panel (PEP).

Eligible Applicants: Public or nonprofit private agencies, organizations, or institutions that have in operation a dissemination process that has current approval by PEP.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR parts 785, 786, and 787.

Project Period: Up to 48 months.

For Applications or Information Contact: Helen O'Leary, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208–5645. Telephone: (202) 219–2139.

Program Authority: 20 U.S.C. 2962.

84.206A Javits Gifted and Talented Students Education Grant Program

Purpose of Program: To provide grants to help build a nationwide capability in elementary and secondary schools to identify and meet the special education needs of gifted and talented elementary and secondary school students.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; other public and private agencies and organizations, including Indian tribes and organizations—as defined by the Indian Self-Determination and Education Assistance Act—and Hawaiian native organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 791.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 791.21.

The program regulations in 34 CFR 791.20 provide that the Secretary may award up to 115 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of Operation (34 CFR 791.21(c)). Ten points are added to this criterion for a possible total of 40 points.

Evaluation Plan (34 CFR 791.21(f)). Five points are added to this criterion for a possible total of 20 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Beverly E. Coleman, U.S. Department of Education, 555 New Jersey Avenue, NW., room 504, Washington, DC 20208–5644. Telephone: (202) 219–2187.

Program Authority: 20 U.S.C. 3061–3068.

Chart 4.—Office of Elementary and Secondary Education

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.004C Desegregation of Public Education—State Educational Agency Desegregation Program	10/2/92	11/6/92	1/5/93	$80,000–700,000	$275,000	53
84.061A Educational Services for Indian Children	12/28/92	2/26/93	4/27/93	46,000–253,000	150,000	15
84.061C Planning, Pilot, and Demonstration Projects for Indian Children (Planning Projects)	12/2/92	2/26/93	4/27/93	49,000–100,000	74,500	1
84.061D Planning, Pilot, and Demonstration Projects for Indian Children (Pilot Projects)	12/28/92	2/26/93	4/27/93	79,000–168,000	130,000	2
84.061E Planning, Pilot, and Demonstration Projects for Indian Children (Demonstration Projects)	12/28/92	2/26/93	4/27/93	79,000–168,000	145,000	2
84.061F Indian Education—Educational Personnel Development	12/28/92	2/26/93	4/27/93	46,215–279,500	162,500	5
84.062A Educational Services for Indian Adults	12/28/92	2/26/93	4/27/93	50,000–277,000	164,000	14
84.072A Indian-Controlled Schools—Enrichment Projects	12/28/92	2/26/93	4/27/93	77,000–344,000	187,000	11
84.083A Women's Educational Equity Act Program—General Significance Grants	1/8/93	3/12/93	5/11/93	50,000–150,000	75,000	8
84.083B Women's Educational Equity Act Program—Challenge Grants	1/8/93	3/12/93	5/11/93	30,000–40,000	35,000	5
84.123A Law-Related Education Program	12/14/92	2/5/93	4/6/93	10,000–100,000	80,000	10
84.141A High School Equivalency Program	11/16/92	2/12/93	4/13/93	150,000–450,000	360,000	23
84.149A College Assistance Migrant Program	11/16/92	2/12/93	4/13/93	150,000–450,000	325,000	7
84.184B Drug-Free Schools and Communities Federal Activities Grants Program	10/21/92	12/9/92	2/7/93	100,000–400,000	200,000	65
84.207A Drug-Free Schools and Communities School Personnel Training Grants Program	12/10/92	2/8/93	4/9/93	100,000–300,000	137,000	35
84.214 Migrant Education Even Start Program	2/19/93	4/20/93	6/19/93	99,000–187,000	180,000	3
84.233A Drug-Free Schools and Communities Emergency Grants Program	11/12/92	1/12/93	3/13/93	100,000–1,000,000	370,000	46
84.241A Drug-Free Schools and Communities Counselor Training Grants Program	1/6/93	2/19/93	4/20/93	50,000–150,000	80,000	46

Chart 4.—Office of Elementary and Secondary Education—Continued

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.258A Even Start Program—Indian Tribes and Tribal Organizations	1/29/93	3/19/93	N/A	75,000–200,000	150,000	2

84.004C Desegregation of Public Education—State Educational Agency Desegregation Program

Purpose of Program: To enable State educational agencies (SEAs) to provide technical assistance and training, at the request of school boards and other responsible governmental agencies, on issues related to race, sex, and national origin desegregation of public schools.

Eligible Applicants: SEAs that will provide services in at least one of the following desegregation assistance areas: race, sex, or national origin desegregation.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86, except that 34 CFR 75.200 through 75.217 (relating to the evaluation and competitive review of grants) do not apply to grants awarded under 34 CFR part 271; and (b) The regulations for this program in 34 CFR parts 270 and 271.

Project Period: Up to 36 months.

For Applications or Information Contact: Adell Washington, U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, Washington, DC 20202–6426. Telephone: (202) 401–0358.

Program Authority: 42 U.S.C. 2000c–2000c–2, 2000c–5.

84.061A Educational Services for Indian Children

Purpose of Program: (1) To provide grants for educational services for Indian children; and (2) to provide grants to encourage Indian students to acquire a higher education and to reduce the incidence of dropouts among Indian elementary and secondary school students.

Eligible Applicants: (a) For grants under purpose No. 1: State educational agencies; local educational agencies; Indian tribes; Indian organizations; and Indian institutions.

(b) For grants under purpose No. 2: consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 253.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, Washington, D.C. 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2621(a), (c).

84.061C Planning, Pilot, and Demonstration Projects for Indian Children (Planning Projects)

Purpose of Program: To provide grants for projects designed to plan effective educational approaches for Indian children.

Eligible Applicants: State educational agencies; local educational agencies; Indian tribes; Indian organizations; Indian institutions; and federally supported elementary and secondary schools for Indian children.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 254.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 12 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2621(a)(1), (b).

84.061D Planning, Pilot, and Demonstration Projects for Indian Children (Pilot Projects)

Purpose of Program: To provide grants for projects designed to test the effectiveness of educational approaches for Indian children.

Eligible Applicants: State educational agencies; local educational agencies; Indian tribes; Indian organizations; Indian institutions; and federally supported elementary and secondary schools for Indian children.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 254.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2621(a)(1), (b).

84.061E Planning, Pilot, and Demonstration Projects for Indian Children (Demonstration Projects)

Purpose of Program: To provide grants for projects designed to demonstrate effective educational activities for Indian children.

Eligible Applicants: State educational agencies; local educational agencies; Indian tribes; Indian organizations; Indian institutions; and federally supported elementary and secondary schools for Indian children.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 254.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2621(a)(1), (b).

84.061F Indian Education—Educational Personnel Development

Purpose of Program: Educational Personnel Development consists of two programs (under section 5321(d) of the Indian Educational Act and under section 5322 of the Act) that provide grants to prepare or improve the

qualifications of persons serving Indian students as educational personnel or ancillary educational personnel.

Eligible Applicants: (a) Under the section 5321(d) program: institutions of higher education (IHEs); local educational agencies in combination with IHEs; and State educational agencies in combination with IHEs. (b) Under the section 5322 program: IHEs; Indian tribes; and Indian organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 256.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Fiscal Information: The Secretary expects to set the stipend maximum at $600 per month for graduate students and $375 per month for undergraduate students. An estimated maximum allowance of $90 per month will be paid for each dependent.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2621(d), 2622.

84.062A Educational Services for Indian Adults

Purpose of Program: To provide grants for educational service projects designed to improve educational opportunities for Indian adults.

Eligible Applicants: Indian tribes; Indian organizations; and Indian institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 257.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2631.

84.072A Indian-Controlled Schools—Enrichment Projects

Purpose of Program: To provide grants for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in those Indian-controlled elementary and secondary schools or local educational agencies eligible under the statute and regulations.

Eligible Applicants: Indian tribes; Indian organizations; and local educational agencies that have been in existence not more than three years.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 252.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902.

Program Authority: 25 U.S.C. 2602(c).

84.083 A and B Women's Educational Equity Act Program—General Significance Grants and Challenge Grants

Purpose of Program: (a) To promote educational equity for women and girls at all levels of education, particularly those who suffer multiple discrimination, bias, or stereotyping based on sex and on race, national origin, disability or age; and (b) to provide financial assistance to help educational agencies and institutions meet the requirements of title IX of the Education Amendments of 1972.

Eligible Applicants: Public agencies, institutions, and organizations, nonprofit private agencies, institutions, and organizations, including student and community groups; and individuals. A consortium of these entities is also eligible to receive a challenge grant.

Available Funds: The Administration's budget request for FY 1993 does not include funds for this program. However, applications are being invited to allow sufficient time to complete the grant process before the end of the fiscal year should the Congress appropriate funds for this program.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR parts 245 and 246.

Priority: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority listed in 34 CFR 245.12. The Secretary first funds under general significance and challenge grants applications that meet this absolute priority:

Projects to develop new educational programs, training programs, counseling programs, or other programs designed to increase the interest and participation of women in instructional courses in mathematics, science, and computer science.

Note: An applicant must indicate if it is submitting its application under this priority. Applications under this priority compete against other applications submitted under this priority for funds allocated to this priority.

Supplementary Information: Under 34 CFR 75.105(c)(3) the Secretary may adjust the amount reserved for the priority after determining the number of high-quality applications received. An applicant may propose a project that is not under the priority but is within the scope of other authorized activities described in 34 CFR 245.11. These applications will compete for the remaining funds not allocated to the priority. If an applicant fails to indicate that its proposed project is under the priority, the application will compete with other applications not evaluated under this priority.

Fiscal Information: Challenge grants may not exceed $40,000 each.

Project Period: Up to 24 months.

For Applications or Information Call: Carrolyn N. Andrews, U.S. Department of Education, 400 Maryland Avenue, SW., room 2049, Washington, DC 20202–6239. Telephone: (202) 401–1342.

Program Authority: 20 U.S.C. 3041–3047.

84.123A Law-Related Education

Purpose of Program: To provide persons with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which these are based.

Eligible Applicants: State educational agencies (SEAs); local educational agencies (LEAs); and public or nonprofit private agencies, organizations, and institutions.

Available Funds: The Administration's budget request for FY 1993 does not include funds for this program. However, applications are being invited to allow sufficient time to complete the grant process before the end of the fiscal year should the Congress appropriate funds for this program.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85,

and 86; and (b) The regulations for this program in 34 CFR part 241.

Priorities:

Absolute Priorities. Under 34 CFR 75.105(c)(3) and 34 CFR 241.11(a) the Secretary gives an absolute preference to applications that meet one or more of the following priorities. The Secretary funds under this competition only applications that meet one or more of these absolute priorities:

Absolute Priority 1—Projects that support the institutionalization of existing model law-related education programs in elementary and secondary school classrooms.

Absolute Priority 2—Projects that provide assistance from established law-related education programs to enable other SEAs and LEAs to institutionalize successful law-related education programs.

Absolute Priority 3—Projects that support the development, testing, demonstration, and dissemination of new approaches or techniques in law-related education that can be used or adapted and eventually institutionalized by other agencies and institutions.

Competitive Preference Priority. Within the absolute priorities specified in this notice, the Secretary, under 34 CFR 75.105(c)(2)(i) and 34 CFR 241.11(b) and in accordance with the Education Council Act of 1991 (Pub. L. 101–62, enacted June 27, 1991), gives preference to applications that meet the following competitive priority. The Secretary awards up to 5 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Projects to operate statewide programs in law-related education.

Project Period: Up to 36 months.

For Applications or Information Contact: Alice T. Ford, U.S. Department of Education, 400 Maryland Avenue, SW., room 2049, Washington, DC 20202–6245. Telephone: (202) 401–1342.

Program Authority: 20 U.S.C. 2965, as amended by Pub. L. 102–62, 105 Stat. 305 (1991).

84.141A High School Equivalency Program (HEP)

Purpose of Program: To assist students—who are engaged, or whose families are engaged, in migrant and other seasonal farmwork—to obtain the equivalent of a secondary school diploma and subsequently to gain employment or be placed in an institution of higher education or other postsecondary education or training.

Eligible Applicants: Institutions of higher education; and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 206.

Project Period: Up to 60 months.

For Applications or Information Contact: Cleveland Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6135. Telephone: (202) 401–0740.

Program Authority: 20 U.S.C. 1070d–2.

84.149A College Assistance Migrant Program (CAMP)

Purpose of Program: To assist students—who are engaged, or whose families are engaged, in migrant and other seasonal farmwork—who are enrolled or admitted for enrollment on a full-time basis in the first academic year at an institution of higher education.

Eligible Applicants: Institutions of higher education; and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 206.

Project Period: Up to 60 months.

For Applications or Information Contact: Cleveland Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6135. Telephone: (202) 401–0740.

Program Authority: 20 U.S.C. 1070d–2.

84.184B Drug-Free Schools and Communities Federal Activities Grants Program

Purpose of Program: To award grants to support drug and alcohol abuse education and prevention activities.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and other nonprofit agencies, organizations, and institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 235.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 235.5 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Implementation of projects that are designed exclusively to intervene with and prevent the use of alcohol or tobacco (nicotine) or both, by youth in one or more grades, kindergarten through grade 12 (K–12).

Supplementary Information: Recent survey results of eighth and tenth grade students indicate that alcohol and tobacco use rates are high among this population (Johnston, O'Malley and Bachman, "Monitoring the Future," Institute for Social Research, University of Michigan, January 27, 1992). In 1991, 8 percent of eighth graders, 21 percent of tenth graders, and 32 percent of high school seniors said they had been drunk at least once during the previous 30 days. Tobacco use was also quite high, with smoking in the past 30 days reported by 14 percent of eighth graders, 21 percent of tenth graders and 28 percent of twelfth graders. Research suggests that prevention of the onset of alcohol and tobacco use in the middle grades should begin at the elementary level.

While it is important for drug abuse education and prevention programs to encompass activities to prevent the use of all types of drugs—and many programs across the country are currently doing so—data reflecting continuing high rates of alcohol and tobacco use by early adolescents indicate that additional attention needs to be devoted to prevention of use of these harmful substances.

To encourage increased efforts that focus on the prevention of alcohol and tobacco use, the Secretary funds only projects that focus exclusively on education about and prevention of the use of alcohol or tobacco or both. Applications proposing projects that focus on all drugs, or on any drugs other than alcohol or tobacco (nicotine) or both, will not meet the absolute priority and will not be considered for funding.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Concept design and contribution to improving the quality of drug and alcohol abuse education and prevention activities (34 CFR 231.22(a)). Ten points are added to this criterion for a possible total of 30 points.

Quality of key personnel (34 CFR 231.22(d)). Five points are added to this criterion for a possible total of 15 points.

Project Period: Up to 24 months, in 12-month increments.

For Applications or Information Contact: Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone: (202) 401–1258.

Program Authority: 20 U.S.C. 3212.

84.207A Drug-Free Schools and Communities School Personnel Training Grants Program

Purpose of Program: To award grants to establish, expand, or enhance programs and activities to train elementary and secondary school teachers and administrators and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and consortia of these organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 233.

Priorities: Under 34 CFR 75.105(c)(1) and 34 CFR 233.5 the Secretary is particularly interested in applications that meet the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Establish, expand, or enhance programs and activities for the training of elementary school personnel working at grade 4 or below concerning education about and prevention of the use of alcohol or tobacco or both.

Invitational Priority 2—Enhance existing programs and activities for the training of school personnel by providing training of school personnel who have not yet received training concerning drug and alcohol abuse education and prevention.

Invitational Priority 3—Train teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who work with high-risk youth in one or more of the following drug education and prevention strategies:

(1) The identification and referral of high-risk youth.

(2) The implementation of student support and assistance groups for high-risk youth.

(3) The implementation of peer helper and adult mentoring services for high-risk youth.

(4) The implementation of strategies to provide opportunities for high-risk youth to develop drug-free lifestyles.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Concept design and contribution to improving the quality of drug and alcohol abuse education and prevention activities (34 CFR 231.22(a)). Ten points are added to this criterion for a possible total of 30 points.

Applicant's commitment and capacity (34 CFR 231.22(f)). Five points are added to this criterion for a possible total of 15 points.

Project Period: Up to 24 months, in 12-month increments.

For Applications or Information Contact: Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone: (202) 401–1258.

Program Authority: 24 U.S.C. 3201.

84.214A Migrant Education Even Start Program

Purpose of Program: To support family-centered education projects to help parents of currently migratory children become full partners in the education of their children, to assist currently migratory children in reaching their full potential as learners, and to provide literacy training for their parents.

Eligible Applicants: State educational agencies (SEAs); and consortia of SEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 212.

Project Period: Up to 48 months.

For Applications or Information Contact: Regina Kinnard, U.S. Department of Education, 400 Maryland Avenue, SW., room 2145, Washington, DC 20202–6135. Telephone: (202) 401–0742.

Program Authority: 20 U.S.C. 2743(a).

84.233A Drug-Free Schools and Communities Emergency Grants Program

Purpose of Program: To award grants to eligible applicants that demonstrate significant need for additional assistance for purposes of combatting drug and alcohol abuse by students served by those applicants.

Eligible Applicants: Local educational agencies (LEAs) that (a) receive assistance under section 1006 of Chapter 1, Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2712), or meet the criteria of section 1006(a)(1)(A)(i) and (ii) of the Act; and (b) serve an area (1) in which there is a large number or high percentage of (i) arrests for, or while under the influence of, drugs or alcohol; or (ii) convictions of youths for drug or alcohol-related crimes; (2) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and (3) that has a significant drug and alcohol abuse problem, as indicated by other appropriate data.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 232.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 232.6, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that support the development and implementation of comprehensive, community-wide drug and alcohol abuse education and prevention programs for students that must involve, at a minimum, (1) families, (2) school personnel, and (3) representatives of community or social service organizations. To be eligible for funding, applications must propose projects that include all three of these components.

Invitational Priority. Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1), an application that meets the invitational priority does not receive competitive or absolute preference over other applications:

Projects that use innovative approaches to create or improve

integrated service models that coordinate the existing or proposed efforts, or both, of school and community officials and service providers to plan, implement, and assess activities to reduce drug and alcohol use by students.

Supplementary Information: For more than five years, the Drug-Free Schools and Communities programs have been providing funding to school districts, colleges, and community organizations for the development and implementation of drug and alcohol abuse prevention and education programs. The grants have provided needed support and assistance to schools and communities in reducing or eliminating drug and alcohol use by school-age children and youth. During this same period schools have begun to employ a comprehensive and coordinated network of school and community resources as an approach to improving students' academic performance, health, and well-being.

The Department of Education is interested in funding Emergency Grants for eligible LEAs to develop and implement projects using this type of integrated services approach in providing a comprehensive, community-wide program of drug and alcohol prevention and education in schools.

Two examples of an integrated services model follow, one that could be funded entirely with Emergency Grant funds, and one that combines Emergency Grant funding with other Federal, State, or local funding. Several Federal programs—including Chapter 2, Title I of the Elementary and Secondary Education Act of 1965, as amended (Chapter 2) and Assistance to Local Educational Agencies in Areas Affected by Federal Activities (Impact Aid)—offer flexibility in that these funds generally can be used to support a variety of activities in an integrated services project. Applicants are encouraged to propose combining Emergency Grants funding with funding from (1) other Federal education programs, including Drug-Free Schools and Communities Act (DFSCA) Part B State Grants; (2) other Federal agencies (e.g., the Departments of Housing and Urban Development, Justice, and Health and Human Services); (3) State and local governments; and (4) the private sector.

Integrated Services Model A—Funding Source: Emergency Grants

An LEA that uses this model will target students who meet one or more of the characteristics of high-risk youth, as defined by section 5122(b)(2) of the DFSCA. For example, the LEA might target pregnant teens (under section 5122(b)(2)(C) of the Act), youths affiliated with gangs who have committed violent or delinquent acts (under section 5122(b)(2)(G)), or economically disadvantaged youths (under section 5122(b)(2)(D)).

This model will provide a comprehensive, community-wide drug and alcohol abuse education and prevention program for the targeted high-risk students. In addition to involving families, school personnel, and representatives of community or social service organizations, this model will include—

(1) A broad needs assessment of the high-risk student participants to determine the types of services, both educational and community-based, needed to reduce the risk of alcohol and other drug use; and

(2) One or more coordinators, full- or part-time, who will be responsible for integrating the services of school and community providers by establishing a network of available alcohol and other drug prevention resources and arranging for the direct provision of needed services. For example, the coordinator might arrange for an after-school or weekend program in which students receive the services of counselors, social workers, and others who are trained to provide guidance and assistance in alcohol and other drug prevention.

In this model, costs charged to the DFSCA must be limited to activities that are directly related to drug and alcohol abuse education and prevention, such as the activities noted in the preceding paragraphs.

Integrated Services Model B—Funding Sources: Emergency Grants and Other Federal, State, or Local Funds

An LEA that uses this model may target all students served by the LEA, or may target any subset of students, such as students who are in age groups or communities particularly vulnerable to alcohol and other drug use.

This model will provide comprehensive services to the targeted population. These services must include, but are not limited to, community-wide drug and alcohol abuse education and prevention activities involving families, school personnel, and representatives of community or social service organizations. For example, this model may provide, in addition to alcohol and other drug prevention activities funded under a DFSCA Emergency Grant and DFSCA Part B State Grant, integrated services that are designed to meet the needs of children, such as one or more of the following:

(1) *Comprehensive health education* (funding source: State funding; local funding; Federal funding under Chapter 2, Title I of the Elementary and Secondary Education Act of 1965, as amended (Chapter 2)—provided the activities are consistent with the statutory and regulatory requirements of Chapter 2; or a combination of any of these funding sources).

(2) *After-school remedial reading and mathematics instruction* (funding source: LEA Program for services for eligible children under Chapter 1, Title I of the Elementary and Secondary Education Act of 1965, as amended, provided the activities are consistent with the statutory and regulatory requirements of Chapter 1).

(3) *Training in and instructional use of computers, video, and other technologies as part of a mathematics and science program* (funding source: Eisenhower National Program for Mathematics and Science, provided the activities are consistent with the statutory and regulatory requirements of this mathematics and science program).

(4) *After-school or weekend instructional activities in the performing and creative arts* (funding source: Chapter 2, provided the activities are consistent with the statutory and regulatory requirements of Chapter 2).

(5) *Literacy training for parents* (funding source: Adult Education Act, provided the activities are consistent with the statutory and regulatory requirements of the Adult Education Act).

(6) *Transportation services* (funding source: Assistance for Local Educational Agencies in Areas Affected by Federal Activities (Impact Aid), provided the activities are consistent with state law and the statutory and regulatory requirements of the Impact Aid program).

(7) *Vocational skills training* (funding source: the Governor's Program in Part B of DFSCA, provided the activities are consistent with the statutory requirements of DFSCA).

(8) *Vocational education and services for parents or vocational education students; or use of vocational education equipment for other instructional purposes; or both* (funding source: Carl D. Perkins Vocational and Applied Technology Act, provided the population served, the activities conducted, and the use of equipment are consistent with the statutory and regulatory requirements of the Perkins Act).

In this model the costs of administering a needs assessment to participating students and the salary costs of one or more coordinators will be shared by all funding sources. As in Model A, costs charged to the DFSCA must be limited to activities that are

directly related to drug and alcohol abuse education and prevention, and costs charged to other programs must be allowable under the applicable program statutes and regulations.

Applications for Emergency Grant funding may propose funding for security personnel or the purchase of metal detectors or other security-related assets as part of a comprehensive, community-wide drug and alcohol abuse education and prevention program. Applications that propose these types of security-related activities must demonstrate a direct relationship between these activities and alcohol and other drug use prevention and education.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Concept design and contribution to improving the quality of drug and alcohol abuse education and prevention activities (34 CFR 231.22(a)). Fifteen points are added to this criterion for a possible total of 35 points.

Project Period: Up to 36 months, in 12-month increments.

For Applications or Information Contact: Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone: (202) 401–1258.

Program Authority: 20 U.S.C. 3216.

84.241A Drug-Free Schools and Communities Counselor Training Grants Program

Purpose of Program: To award grants to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

Note: Funds under this program may not be used for treatment services.

Eligible Applicants: State educational agencies; local educational agencies (LEAs); institutions of higher education; consortia of those agencies or institutions; and any nonprofit private agency that has an agreement with an LEA to provide training in drug abuse counseling for individuals who will provide counseling in the schools of that LEA.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR parts 98 and 99.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in EDGAR, 34 CFR 75.210.

EDGAR in 34 CFR 75.210(a)(2) provides that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points [34 CFR 75.210(c)]. For this competition the Secretary distributes the 15 points as follows:

Extent of Need for the Project (34 CFR 75.210(b)(2)). Eight points are added to this criterion for a possible total of 28 points.

Plan of Operation: (34 CFR 75.210(b)(3)). Seven points are added to this criterion for a possible total of 22 points.

Project Period: Up to 18 months.

For Applications or Information Contact: Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone: (202) 401–1258.

Program Authority: 20 U.S.C. 3202, 3203.

84.258A Even Start Program—Indian Tribes and Tribal Organizations

Purpose of Program: To provide Federal financial assistance for the Federal share of providing family-centered education projects to (a) help parents become full partners in the education of their children, (b) assist these children in reaching their full potential as learners, and (c) provide literacy training for their parents.

Eligible Applicants: Federally recognized Indian tribes and tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, and 85; and (b) The regulations for this program in 34 CFR part 212.

Project Period: Up to 48 months.

For Applications or Information Contact: Patricia McKee, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2017, Washington, DC 20202–6132. Telephone: (202) 401–1692.

Program Authority: 20 U.S.C. 2741–2749.

CHART 5.—OFFICE OF POSTSECONDARY EDUCATION

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.031G Endowment Challenge Grant Program	4/15/93	6/14/93	N/A	$50,000—500,000	$350,000	20
84.120 Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects	10/21/92	12/24/92	2/21/93	25,000-250,000	150,000	40
84.220A Centers for International Business Education	12/2/92	2/19/93	4/20/93	175,000–300,000	266,666	9
84.229A Language Resource Centers Program	1/11/93	3/1/93	N/A	200,000–400,000	300,000	4
Fund for the Improvement of Postsecondary Education (FIPSE)						
84.183A Drug Prevention Programs in Higher Education—Institution-Wide Program	10/19/92	1/19/93	3/20/93	10,000–250,000	103,000	100
84.183B Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program	12/4/92	4/5/93	6/4/93	100,000–250,000	200,000	4
84.183D Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention)	11/20/92	2/17/93	4/18/93	5,000–40,000	34,000	47

CHART 5.—OFFICE OF POSTSECONDARY EDUCATION—Continued

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.183E Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects	11/13/92	1/19/93	3/20/93	35,000–150,000	133,000	6
84.183F Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects	11/13/92	1/19/93	3/20/93	Up to 150,000	133,000	6

84.031G Endowment Challenge Grant Program

Purpose of Program: To provide matching grants to eligible institutions of higher education to establish or increase their endowment funds.

Eligible Applicants: Institutions of higher education that are designated as eligible. The Secretary is publishing separately in the **Federal Register** a notice informing interested parties how to be designated as eligible to apply for Endowment Challenge Grant funds.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 74.61(h) or 74.62, as applicable, 74.80 through 74.85, 75.100 through 75.102, and 75.217(d) and (e); and in 34 CFR parts 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 628.

Project Period: 240 months (20 years).

Fundraising Period: 18 months (September 1993–March 1995).

For Applications: Applications will be sent to those institutions designated as eligible under the Title III Programs.

For Information Contact: Anne Price-Collins, U.S. Department of Education, 400 Maryland Avenue SW., room 3042, ROB–3, Washington, DC 20202–5337. Telephone: (202) 708–8866.

Program Authority: 20 U.S.C. 1065a.

84.120 Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects

Purpose of Program: To (a) effect long-range improvement in science education at predominantly minority institutions and (b) increase the flow of underrepresented ethnic minorities, particularly minority women, into scientific careers.

Eligible Applicants:

(a) For institutional, design, and special projects: public and nonprofit private minority institutions; that is, accredited colleges and universities whose enrollment of a single minority group or combination of minority groups, as defined in 34 CFR 637.4(b), exceeds 50 percent of the total enrollment.

(b) For institutional, design, and special projects described in 34 CFR 637.14 (b) and (c)): nonprofit science-oriented organizations; professional scientific societies; and nonprofit accredited colleges and universities that render a needed service to a group of eligible minority institutions—as defined in paragraph (a) of this section—or that provide inservice training of project directors, scientists, and engineers from eligible minority institutions.

(c) For cooperative projects: groups of nonprofit accredited colleges and universities whose primary fiscal agent is a minority institution as defined in 34 CFR 637.4(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 637.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. Argelia Velez-Rodriguez, U.S. Department of Education, 400 Maryland Avenue SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–4662.

Program Authority: 20 U.S.C. 1135b–1135b–3, 1135d–1135d–6.

84.220A Centers for International Business Education

Purpose of Program: To provide Federal financial assistance for planning, establishing, and operating centers for international business.

Eligible Applicants: Institutions of higher education (IHEs); and combinations of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86.

Note: Because there are no program-specific regulations for this program, applicants are encouraged to read the authorizing statute for the Centers for International Business Education Program, codified under title VI, part B, section 612 of the Higher Education Act of 1965, as amended by section 6261 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418).

Project Period: 36 months.

For Applications or Information Contact: Susanna C. Easton, U.S. Department of Education, 400 Maryland Avenue, SW., room 3053, ROB–3, Washington, DC 20202–5332. Telephone: (202) 708–8764.

Program Authority: 20 U.S.C. 1130–1.

84.229A Language Resource Centers Program

Purpose of Program: To provide assistance to centers that serve as resources for improving the Nation's capacity for teaching and learning foreign languages.

Eligible Applicants: Institutions of higher education (IHEs); and combinations of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) is 34 CFR parts 74, 75, 77, 80, 82, 85, and 86; and (b) The Regulations of this program in 34 CFR parts 655 and 669.

Priorities:

Competitive Preference Priority. Under 34 CFR 75.105(c)(2)(ii), 669.22(a), and 669.3(d) the Secretary gives preference to applications that meet the following competitive priority. An application that meets this competitive priority is selected by the Secretary over applications of comparable merit that do not meet the priority:

Training of teachers in the administration and interpretation of foreign language performance tests, the use of effective teaching strategies, and the use of new technologies.

Invitational Priority. Within the competitive priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

The training of elementary and secondary teachers in the administration and interpretation of foreign language performance tests, the use of effective teaching strategies, and

the use of new technologies in Chinese, German, Japanese, and Russian.

Project Period: 36 months.

For Applications or Information Contact: Jose L. Martinez. U.S. Department of Education, 400 Maryland Avenue SW., room 3053, ROB–3, Washington, DC 20202–5331. Telephone: (202) 708–9297.

Program Authority: 20 U.S.C. 1123.

84.183A Drug Prevention Programs in Higher Education—Institution-Wide Program

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under the Institution-Wide Program competitions support comprehensive, institution-wide programs designed to prevent or eliminate students' use of illegal drugs and abuse of other drugs and alcohol, including activities whose direct or indirect purpose is to train students, faculty, and staff in drug abuse education and prevention.

Eligible Applicants: IHEs; and consortia of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the selection criteria in 34 CFR 612.23(c)(1).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Methods and management plan (34 CFR 612.23 (c)(1)(iii)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(1)(v)). Five points are added to this criterion for a possible total of 15 points.

Organizational commitment (34 CFR 612.23(c)(1)(vii)). Five points are added to this criterion for a possible total of 20 points.

Project Period: 24 months.

For Applications or Information Contact: FIPSE, FY 1993–A Competition, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information.

Program Authority: 20 U.S.C. 3211.

84.183B Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program

Purpose of Program: To provide grants to develop, implement operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs).

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Because only IHEs and consortia of IHEs are eligible to receive awards under this competition, an interested national college student network or organization must be sponsored by an IHE. The IHE will serve as both the applicant and grantee.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priority: Under 34 CFR 75.105(c)(3), 34 CFR 612.21(c)(1), and 34 CFR 612.21(c)(2)(ii) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority.

Applications proposing the development and implementation of projects (a) conducted in conjunction with national college student networks or organizations and (b) addressing one or more specific approaches or problem areas related to drug abuse education and prevention for students enrolled in IHEs.

Selection Criteria:

In evaluating applications for grants under this program competition, the Secretary uses the selection criteria in 34 CFR 612.32(c)(2)(ii).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Design (34 CFR 612.23(c)(2)(ii)(A)). Five points are added to this criterion for a possible total of 25 points.

Organizational commitment (34 CFR 612.23(c)(2)(ii)(F)). Ten points are added to this criterion for a possible total of 20 points.

Project Period: Up to 36 months.

For Applications or Information Contact: FIPSE, FY 1993–B Competition, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information.

Program Authority: 20 U.S.C. 3211.

84.183D Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention)

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs).

Eligible Applicants: IHEs; and consortia of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(c)(2)(iii)(B) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to develop, implement, operate, or improve programs that concentrate on specific approaches to the prevention of drug use or alcohol abuse.

Invitational Priority. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Applications proposing to develop, implement, operate, or improve higher education consortia for drug prevention.

Applicants are invited to propose consortia arrangements to assist either (a) local IHE alcohol and other drug prevention professionals, or (b) IHE chief executive officers and other senior administrators. In these types of arrangements, participants would be expected to meet monthly to work toward the development, improvement, and implementation of their own comprehensive, institution-wide programs of drug education and prevention activities and services.

Selection Criteria: In evaluating applications for Specific Approaches to Prevention grants, the Secretary uses the selection criteria in 34 CFR 612.23(c)(2)(iii).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may

award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Need (34 CFR 612.23(c)(2)(iii)(A)). Five points are added to this criterion for a possible total of 20 points.

Methods and management plan (34 CFR 612.23(c)(2)(iii)(C)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(2)(iii)(E)). Five points are added to this criterion for a possible total of 15 points.

Project Period: 24 months.

For Applications or Information Contact: FIPSE, FY 1993-D Competition, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information.

Program Authority: 20 U.S.C. 3211.

84.183E Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under Analysis and Dissemination Program competitions support projects to analyze and disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions and Special Focus Program competitions.

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Under 34 CFR 612.2(d) eligibility under this Analysis and Dissemination Program competition is limited to current or former recipients of awards under an Institution-Wide Program competition or a Special Focus Program competition.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(d) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions or Special Focus Program competitions.

Note: Because Institution-Wide and Special Focus projects are diverse, the Department has not adopted a single operational definition of a "successful project." Instead, the Secretary expects applicants to make their most persuasive case for the success of their respective projects and to provide convincing evidence that the projects are effective and worth disseminating to other campuses. What constitutes convincing evidence may differ among projects.

Applicants may wish to strengthen their case by providing data on several project outcomes associated with the use of alcohol and other drugs. Examples of these outcomes include, but are not limited to, the following:

(a) Changes in students' knowledge, social skills, intentions, attitudes, and perceptions of risk.

(b) Changes in institutional policies and their enforcement.

(c) Changes in the campus social environment.

(d) Changes in rates of students' use of alcohol and other drugs.

(e) Changes in the incidence of student-related campus crime and other violations of law or campus policies.

(f) Changes in the incidence of student-related injury or death.

(g) Changes in student attrition rates, graduation rates, and academic achievement.

Invitational Priorities. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Applications to assist other IHEs in the implementation of a successful Institution-Wide project. The project to be disseminated is based on the applicant's own successful Institution-Wide project for which departmental assistance has ended.

Invitational Priority 2—Applications to disseminate information on a specific successful project component, approach, or type of activity. The component, approach, or type of activity to be disseminated is based on the applicant's own successful Institution-Wide project and a number of other Institution-Wide projects for which departmental assistance has ended. The applicant would disseminate information to (a) IHEs, (b) one or more higher education associations or other national associations, or (c) both (a) and (b).

Selection Criteria: In evaluating applications for grants under the Analysis and Dissemination Program, the Secretary uses the selection criteria in 34 CFR 612.23(c)(3).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Design (34 CFR 612.23(c)(3)(i)). Five points are added to this criterion for a possible total of 35 points.

Key personnel (34 CFR 612.23(c)(3)(iii)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(3)(iv)). Five points are added to this criterion for a possible total of 15 points.

Project Period: 24 months.

For Applications or Information Contact: FIPSE, FY 1993–E Competition, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information.

Program Authority: 20 U.S.C. 3211.

84.183F Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under Analysis and Dissemination Program competitions support projects to analyze and disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions and Special Focus Program competitions.

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Under 34 CFR 612.2(d) eligibility under this Analysis and Dissemination Program competition is limited to current or former recipients of awards under an Institution-Wide Program competition or a Special Focus Program competition.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(d) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to analyze successful project designs, policies, and

results of projects supported under Institution-Wide Program competitions.

Invitational Priorities. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Applications by current or former recipients of grants under Institution-Wide Program competitions proposing to analyze the direct and indirect impacts of all FY 1989 Institution-Wide projects for which departmental assistance has ended.

Invitational Priority 2—Applications by current or former recipients of grants under Institution-Wide Program competitions proposing to analyze special topics or issues related to the effectiveness of Institution-Wide projects, examples of which have been selected from Institution-Wide projects for which Departmental assistance has ended.

Selection Criteria: In evaluating applications for grants under the Analysis and Dissemination Program, the Secretary uses the selection criteria in 34 CFR 612.23(c)(3).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Key personnel (34 CFR 612.23(c)(3)(iii)). Ten points are added to this criterion for a possible total of 25 points.

Evaluation (34 CFR 612.23(c)(3)(iv)). Five points are added to this criterion for a possible total of 15 points.

Project Period: Up to 24 months.

For Applications or Information Contact: FIPSE, FY 1993–F Competition, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information.

Program Authority: 20 U.S.C. 3211.

CHART 6. OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
Office of Special Education Programs						
84.024B Early Childhood Model Demonstration [1]						
84.024D Outreach Projects [1]						
84.026F Closed-Captioned Movies, Mini-Series, and Special Programs Broadcast during Prime-Time [1]						
84.026J Closed-Captioned Syndicated Television Programming [1]						
84.026M Symposium on Educational Media Technology Relating to Persons with Sensory Disabilities [1]						
84.026P Closed-Captioned National News and Public Information Programs [1]						
84.026R Special Research, Development, and Evaluation Projects [1]						
84.026T Cultural Experiences for Deaf and Hard of Hearing Individuals [1]						
84.026V Closed-Captioned Children's Programs [1]						
National Institute on Disability and Rehabilitation Research						
84.133A–3 Research and Demonstration Projects	10/30/93	5/28/93	N/A	$150,000–200,000	$175,000	4
84.224A State Grants for Technology-Related Assistance for Individuals with Disabilities	1/15/93	4/16/93	6/15/93	150,000–550,000	520,000	10
Rehabilitation Services Administration						
84.128G Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Handicaps	10/16/92	11/30/92	1/29/93	75,000–120,000	98,000	7
84.129A–1 Rehabilitation Long-Term Training—Rehabilitation Medicine	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	4
84.129A–5 Rehabilitation Long-Term Training—Prosthetics and Orthotics	10/16/92	11/30/92	1/29/93	165,000–185,000	175,000	1
84.129B Rehabilitation Long-Term Training—Rehabilitation Counseling	12/18/92	2/3/93	4/5/93	90,000–110,000	100,000	15
84.129C–1 Rehabilitation Long-Term Training—Rehabilitation Facility Administration	10/16/92	11/30/92	1/29/93	115,000–135,000	125,000	4
84.129C–3 Rehabilitation Long-Term Training—Rehabilitation Administration	10/16/92	11/30/92	1/29/93	115,000–135,000	125,000	2
84.129D Rehabilitation Long-Term Training—Occupational Therapy	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	3
84.129E Rehabilitation Long-Term Training—Rehabilitation Engineering	10/16/92	11/30/92	1/29/93	115,000–135,000	125,000	3
84.129F Rehabilitation Long-Term Training—Vocational Evaluation and Work Adjustment	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	4
84.129G Rehabilitation Long-Term Training—Rehabilitation Workshop and Facility Personnel	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	2
84.129H Rehabilitation Long-Term Training—Rehabilitation of the Mentally Ill	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	4
84.129K Rehabilitation Long-Term Training—Specialized Personnel for Supported Employment	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	2

CHART 6. OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES—Continued

CFDA No. and Name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.129L Rehabilitation Long-Term Training—Undergraduate Education in Rehabilitation Services	10/16/92	11/30/92	1/29/93	60,000–80,000	70,000	3
84.129M Rehabilitation Long-Term Training—Independent Living	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	1
84.129P Rehabilitation Long-Term Training—Rehabilitation of the Blind	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	4
84.129Q Rehabilitation Long-Term Training—Rehabilitation of the Deaf	10/16/92	11/30/92	1/29/93	90,000–110,000	100,000	6
84.129R Rehabilitation Long-Term Training—Rehabilitation Job Development and Placement	10/16/92	11/30/92	1/29/93	65,000–85,000	75,000	2
84.129T Rehabilitation Training—Experimental and Innovative Training	10/6/92	11/23/93	1/22/93	90,000–110,000	100,000	3
84.129V Rehabilitation Training—State Vocational Rehabilitation Unit In-Service Training	2/12/93	4/1/93	6/1/93	3,300–123,000	52,700	37
84.234K Projects with Industry	10/16/92	11/30/92	1/29/93	140,000–175,000	150,000	7
84.235C Special Projects and Demonstrations Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Non-Priority	10/16/92	11/30/92	1/29/93	125,000–200,000	150,000	21
84.235Q Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Transition Rehabilitation Services for Handicapped Youth with Special Needs	10/16/92	11/30/92	1/29/93	115,000–185,000	150,000	7
84.250C Vocational Rehabilitation Service Projects for American Indians with Handicaps	10/16/92	11/30/92	N/A	175,000–300,000	230,000	5

[1] Announcement for these programs appear in separate notices in this issue of the FEDERAL REGISTER.

84.133A Research and Demonstration Projects

Purpose of Program: To support research and demonstrations projects on issues related to disabilities. These projects may conduct research into the nature of disability, techniques for rehabilitation, studies and analysis of factors affecting rehabilitation, and research on problems encountered by persons with disabilities in their daily activities.

Eligible Applicants: Public and private agencies and organizations, including institutions of higher education; Indian tribes; and tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 350 and 351.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Interfaces. The design of new, state-of-the-art grahpic user interfaces (GUIs) for use with currently available computer graphic user interfaces (GUIs) for use hardware and software to enable persons with blindness or vision impairments to use the interfaces.

Invitational Priority 2—External Incontinence Devices. Design and testing of external incontinence devices to collect and dispose of urine and feces to enable individuals with disabilities involving serious incontinence problems to manage their lives better and achieve greater integration into the community and workplace.

Invitational Priority 3—Emergency Warning and Evacuation Systems. Development of emergency warning and evacuation systems to alert individuals with vision, hearing, mobility, and cognitive impairments to dangers in the home, workplace, and community, thereby promoting the safety of these individuals and enabling them to maintain or increase their level of integration into the community.

Invitational Priority 4—Assurance of Quality in Assistive Technology Delivery. Developing systems and tools to assure quality in assistive technology delivery. This includes—

(a) Methods of measurement and standards (1) to determine the most appropriate technology for an individual user and (2) to evaluate better the effectiveness of any specific application of technology as used by an individual for specific purposes; and

(b) Tools to provide evaluators with the capacity to make objective appraisals of assistive technology and technology delivery systems.

Project Period: Up to 36 months.

For Further Information or Applications Contact: William Whalen, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 205–9141. Individuals who are hearing-impaired and other persons who use a telephone device for the deaf (TDD) may call (202) 205–8198 for TDD services.

Program Authority: 29 U.S.C. 750–762.

84.224A State Grants for Technology-Related Assistance for Individuals With Disabilities

Purpose of Program: To assist States financially in developing and implementing consumer-responsive, comprehensive statewide programs of technology-related assistance for individuals with disabilities.

Eligible Applicants: State entities designated by Governors as the lead agencies under 34 CFR 345.4.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), in 34 CFR parts 74, 75 (except 75.618), 77, 79, 80 (except §§ 80.32(a) and 80.33(a)), 81, 82, 85, 86; and (b) The regulations for this program is 34 CFR part 345.

Project Period: Up to 36 months, with the possibility of a 24-month extension.

For Applications or Information Contact: William Whalen, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–2601. Attention: Peer Review Unit. Telephone: (202) 205–9141. Individuals who are hearing-impaired and other persons who use a telephone device for

the deaf (TDD) may call (202) 205–8198 for TDD services.

Program Authority: 29 U.S.C. 2201–2271.

84.128G Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers With Handicaps

Purpose of Program: To provide grants for vocational rehabilitation services for migratory agricultural workers or seasonal farmworkers with handicaps.

Eligible Applicants: State vocational rehabilitation agencies; local agencies administering vocational rehabilitation programs under written agreements with State vocational rehabilitation agencies; and State vocational rehabilitation agencies that enter into agreements with the State vocational rehabilitation agencies of one or more other States to develop cooperative programs for the provision of vocational rehabilitation services.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR parts 369 and 375.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Ed Hofler, U.S. Department of Education, 400 Maryland Avenue SW., room 3318, Switzer Building, Washington, DC 20202–2650, Telephone (202) 205–9432.

Program Authority: 29 U.S.C. 777b.

84.129 A–R Rehabilitation Training—Rehabilitation Long-Term Training

Purpose of Program: To provide grants (a) to increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational rehabilitation and independent living rehabilitation of individuals with handicaps, especially those individuals with the most severe handicaps; and (b) to maintain and upgrade the skills and knowledge of personnel employed as providers of vocational, social, or psychological rehabilitation services.

Eligible Applicants: State agencies, and other public or nonprofit private agencies and organizations, including institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Priorities:

Absolute Priorities. Under 34 CFR 75.105(c)(3) and 34 CFR 386.1 the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that meet one of these absolute priorities:

Projects that propose to provide training in one of the following areas of personnel shortages:

Rehabilitation medicine (CFDA No. 84.129A–1)
Prosthetics and orthotics (CFDA No. 84.129A–5)
Rehabilitation counseling (CFDA No. 84.129B)
Rehabilitation facility administration (CFDA No. 84.129C–1)
Rehabilitation administration (CFDA No. 84.129C–3)
Occupational therapy (CFDA No. 84.129D)
Rehabilitation engineering (CFDA No. 129E)
Vocational evaluation and work adjustment (CFDA No. 84.129F)
Rehabilitation workshop and facility personnel (CFDA No. 84.129G)
Rehabilitation of the mentally ill (CFDA No. 84.129H)
Specialized personnel for supported employment (CFDA No. 84.129K)
Undergraduate education in rehabilitation services (CFDA No. 84.129L)
Independent living (CFDA No. 84.129M)
Rehabilitation of the blind (CFDA No. 84.129P)
Rehabilitation of the deaf (CFDA No. 84.129Q)
Rehabilitation job development and placement (CFDA No. 84.129R)

Invitational Priorities. Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Prioritiy 1—Within the absolute priorities specified in this notice, projects designed to provide financial assistance to individuals for long-term academic training in certificate- or degree-granting courses of study.

Invitational Priority 2—Within the absolute priority of Rehabilitation Counseling, projects that provide academic training to individuals at both the master's degree level and the doctoral degree level.

Invitational Priority 3—Within the absolute priority of Independent Living, projects of national scope to develop and provide training that prepares community-based independent living specialists to serve individuals who are deaf/blind.

Project Period: The project period varies according to the particular competition, as follows:

Competition area/CFDA No.	Project period
Rehab. Medicine (84.129A–1)	Up to 60 months.
Pros. & Orthotics (84.129A–5)	Up to 36 months.
Rehab. Counseling (84.129B)	Up to 60 months.
Rehab. Fac. Admin. (84.129C–1).	Up to 36 months.
Rehab. Admin. (84.129C–3)	Up to 36 months.
Occup. Therapy (84.129D)	Up to 36 months.
Rehab. Engin. (84.129E)	Up to 36 months.
Voc. Eval. Wk. Adj. (84.129F)	Up to 60 months.
Rehab. Wkshp./Fac. Pers. (84.129G).	Up to 36 months.
Rehab. of the Ment. Ill. (84.129H).	Up to 36 months.
Spec. Pers./Sup. Employ. (84.129L).	Up to 36 months.
Undergrad. Education (84.129L).	Up to 36 months.
Independent Living (84.129M)	Up to 36 months.
Rehab. of the Blind (84.129P)	Up to 36 months.
Rehab. of the Deaf (84.129Q)	Up to 36 months.
Job Dev./Job Place. (84.129R)	Up to 36 months.

For Applications: Telephone (202) 205–9343.

For Information Contact: Richard Melia, U.S. Department of Education, 400 Maryland Avenue, SW., room 3324, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9400.

Program Authority: 29 U.S.C. 774.

84.129T Rehabilitation Training—Experimental and Innovative Training

Purpose of Program: To support pilot projects that develop new types of training programs for rehabilitation personnel or that develop new and improved methods of training rehabilitation personnel.

Eligible Applicants: State agencies; and other public or nonprofit private agencies and organizations, including institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 387.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects designed to advance the use of new or improved methods of learning and apply existing technology to rehabilitation education.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Bob Werner, U.S. Department of Education, 400 Maryland Avenue, SW., room 3322, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–8291.

Program Authority: 29 U.S.C. 774.

84.129V Rehabilitation Training—State Vocational Rehabilitation Unit In-Service Training

Purpose of Program: To provide grants for in-service training to State vocational rehabilitation unit personnel in areas essential to effective management or in skill areas to improve the provision of vocational rehabilitation services.

Eligible Applicants: State agencies; and other public or nonprofit private agencies and organizations, including institutions of higher education.

Note: Funds are available under this program for the support of new projects in Regions IV, V, and IX only.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 365 and 388.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Bob Werner, U.S. Department of Education, 400 Maryland Avenue, SW., room 3322, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–8291.

Program Authority: 29 U.S.C. 774.

84.234K Projects With Industry

Purpose of Program: To promote opportunities for competitive employment of individuals with handicaps by engaging private industry as partners in training and placement.

Eligible Applicants: Designated State units; industrial, business or commercial enterprises; labor organizations; employers; industrial or community trade associations; rehabilitation facilities; and other agencies or organizations with the capacity to arrange, coordinate, or conduct training and other employment programs and provide supportive services and assistance for individuals with handicaps in a realistic work setting.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR parts 369 and 379.

Priority: Under 34 CFR 75.105(c)(2)(i) and section 621(i) of the Rehabilitation Act the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Applications that propose to provide services in geographic areas among the States that are currently unserved or underserved.

Project Period: Up to 60 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Barbara Sweeney, U.S. Department of Education, 400 Maryland Avenue, SW., room 3330, Switzer Building, Washington, DC 20202–2650. Telephone: (202) 205–9544.

Program Authority: 29 U.S.C. 795g.

84.235C Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps—Non-Priority

Purpose of Program: To provide support for projects to expand or otherwise improve vocational rehabilitation services and other rehabilitation services for individuals with severe handicaps who can benefit from innovative and comprehensive services.

Examples of these innovative and comprehensive service projects leading to employment or increased independence include, but are not limited to: the use of generic technology adapted to meet special needs, natural support systems, patterns of services that lead to opportunities for new careers, and services to meet the needs of isolated or special populations of individuals with handicaps.

Note: Under this competition the Secretary considers applications that do not address one of the absolute priorities under other Special Projects and Demonstrations competitions in this combined application notice for fiscal year 1993.

Eligible Applications: States; and other public and nonprofit private agencies and organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 369 and 373.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Thomas Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3315, Switzer Building, Washington, DC 20202–2650. Telephone: (202) 205–9796.

Program Authority: 29 U.S.C. 711a(a)(1).

84.235Q Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps—Transitional Rehabilitation Services for Handicapped Youth With Special Needs

Purpose of Program: To assist projects that provide job training to prepare handicapped youth for entry into the labor market, including competitive or supported employment.

Eligible Applicants: States; and other public and nonprofit private agencies and organizations.

Applicable Regulations: (a) The Education Department general Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts and 369 and 376.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 376.30(c) the Secretary gives absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Transitional Rehabilitation Services for Handicapped Youth With Special Needs. Projects that offer transitional rehabilitation services focused on meeting the special job training and placement needs of one or more groups of individuals with physical or mental disabilities that present unusual and difficult rehabilitation problems. These disabilities include, but are not limited to, blindness, cerebral palsy, deafness, epilepsy, mental illness, mental retardation, and learning disability.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Thomas Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3315, Switzer Building, Washington, DC 20202. Telephone: (202) 205–9796.

Program Authority: 29 U.S.C. 777a(c).

84.250C Vocational Rehabilitation Services Projects for American Indians With Handicaps

Purpose of Program: To provide grants for vocational rehabilitation services to American Indians with handicaps who reside on Federal or State reservations.

Eligible Applicants: Governing bodies of Indian tribes; and consortia of these governing bodies located on Federal and State reservations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in

34 CFR parts 75, 77, 80, 81, 82, and 85; and (b) The regulations for this program in 34 CFR parts 369 and 371.

Project Period: Up to 36 months.

For Applications: Telephone: (202) 205–9343.

For Information Contact: Ed Hofler, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3318, Switzer Building, Washington, DC 20202–2650. Telephone: (202) 205–9432.

Program Authority: 29 U.S.C. 750.

CHART 7—OFFICE OF VOCATIONAL AND ADULT EDUCATION

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.101 Native Hawaiian Vocational Education Program	1/4/93	4/16/93	6/15/93	N/A	$2,469,732	1
84.077 Bilingual Vocational Training Program [1]						
84.099 Bilingual Vocational Instructor Training Program [1]						

[1] Announcements for these programs appear in separate notices in this issue of the FEDERAL REGISTER.

84.101C Native Hawaiian Vocational Education Program

Purpose of Program: To provide Federal financial assistance for projects that offer vocational education for the benefit of native Hawaiians.

Eligible Applicants: Organizations that (a) primarily serve and represent native Hawaiians and (b) are recognized by the Governor of the State of Hawaii.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR part 400; and (c) The regulations for this program in 34 CFR part 402.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 402.21.

The program regulations in 34 CFR 402.20(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Management Plan (34 CFR 402.21(b)). Fifteen points are added to this criterion for a possible total of 40 points.

Project Period: Up to 12 months.

For Applications or Information Contact: Kate Holmberg, U.S. Department of Education, 400 Maryland Avenue, SW., room 4519, Switzer Building, Washington, DC 20202–7242. Telephone: (202) 205–5563.

Program Authority: 20 U.S.C. 2313(c).

Invitation to Comment

The Secretary welcomes comments and suggestions for improving the annual combined application notice.

Please direct any comments and suggestions to Steven N. Schatken, Assistant General Counsel for Regulations, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4091, FOB–6), Washington, DC 20202–2110.

Dated: September 15, 1992.

Lamar Alexander,

Secretary of Education.

Appendix—Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, EO 12372—CFDA # (commenter must insert number—including suffix letter, if any), U.S. Department of Education, room 4161, 400 Maryland Avenue SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

State Single Points of Contact

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315.

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203 Telephone (303) 866–2156.

Connecticut

Mr. William T. Quigg, Intergovernmental Review Coordinator, State Single Point of Contact, Office of Policy and Management, Intergovernmental Policy Division, 80 Washington, Street, Hartford, Connecticut 06106–4459, Telephone (203) 566–3410.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903,Telephone (302) 739–3326.

District of Columbia

Patricia Savannah Jones, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, N.W., Washington, D. C. 20004 Telephone (202) 727–9111.

Florida

Janice L. Alcott, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656–3855.

Hawaii

Mary Lou Kobayashi, Planning Program Manager, Office of State Planning, Office of the Governor, P.O. Box 3540, Honolulu, Hawaii 96811, Telephone (808) 587–2802, FAX (808) 548–8172.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782–8639.

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309 Telephone (515) 281–3725.

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfurt, Kentucky 40601, Telephone (502) 564–2382

Maine

State Single Point of Contact Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201, Telephone (301) 225–4490.

Massachusetts

State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001.

Michigan

Milton Waters, Director of Operations, Michigan Department of Commerce, Michigan Neighborhood Alliance.

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Office of Policy Development, Department of Finance and Administration, 455 N. Lamar Street, Suite 120, Jackson, Mississippi 39202, Telephone (601) 359–6765.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102 Telephone (314) 751–4834.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: Ron Sparks, Clearinghouse Coordinator, Telephone (702) 687–4065.

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, ATTN: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155.

New Jersey

Richard J. Porth, Director, Division of Community Resources

Please direct all correspondence and questions about intergovernmental review to: Andrew Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0814, Telephone (609) 292–9025.

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499.

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698.

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656.

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778.

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535.

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326.

West Virginia

Fred Cutlip, Director, Community Development Divisions, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010.

Wisconsin

William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal/State Relations Office, Wisconsin Department of Administration, Telephone (608) 266–0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574.

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444.

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, VI 00802, Telephone (809) 774–0750.

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Federal Register

Monday
September 21, 1992

Part III

Department of Education

Educational Media Research, Production, Distribution, and Training Program and Inviting Applications for New Awards for Fiscal Year 1993; Notices

DEPARTMENT OF EDUCATION

Educational Media Research, Production, Distribution, and Training Program

AGENCY: Department of Education.

ACTION: Notice of final priorities for Fiscal Year 1993.

SUMMARY: The Secretary announces final priorities for fiscal year (FY) 1993 under the Educational Media Research, Production, Distribution, and Training Program. The Secretary takes this action to focus Federal financial assistance on those areas of greatest need. These priorities are intended to ensure the continued availability of closed-captioned television, to expand the cultural experiences available to children who are deaf and hard of hearing, and to disseminate information about new technologies for persons with sensory disabilities.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2466. Telephone: (202) 205–9503. Deaf and hearing impaired individuals may call (202) 205–8170.

SUPPLEMENTARY INFORMATION: This notice contains final priorities under the Educational Media Research, Production, Distribution, and Training Program. On June 15, 1992, the Secretary published a notice of proposed priorities for this program in the **Federal Register** (57 FR 26760).

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Educational Goals, by assisting those with disabilities in meeting Goal 1, school readiness, and Goal 5, adult literacy.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, eight parties submitted comments. An analysis of the comments and of the changes in the priorities since publication of the notice of proposed priorities follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General Comments

Comment: Several commenters suggested particular numbers of awards and increased funding levels for projects under several priorities. Specifically, some commenters suggested a single award under some priorities to facilitate coordination of captioning activities. Other commenters expressed concerns that a single award favored particular captioning organizations.

Discussion: In announcing proposed priorities, the Secretary does not establish numbers of awards or funding levels for the projects. Information about the anticipated number of awards and about funding levels will be provided when the Secretary invites applications for specific competitions.

Changes: None.

Comment: Several commenters expressed concerns about limiting the funds provided under priorities 1 and 4 to supporting no more than two-thirds of the captioning costs for each program hour of each program captioned. One commenter felt that this should be a goal, but not an absolute requirement; one commenter felt that this limit would restrict the possibilities for expanding captioning to include programs not previously captioned; one commenter felt that six months was too short a time to identify private sector support for programs; and one commenter stated that the two-thirds limit should apply to the total hours captioned under the grant rather than each program hour.

Discussion: It has always been the goal of the Department of Education that the costs of captioning be considered part of the routine costs of providing television services to the viewing public. Since 1980 the portion of captioning paid for through nonfederal support has grown significantly, particularly in prime-time, news, and sports programming on major broadcast networks. As the implementation of the Decoder Circuitry Act increases the number of homes with decoders, this trend is likely to accelerate. The Secretary views the two-thirds limit for some types of television programming as reasonable, particularly for programs that previously have been captioned. At the same time, the Secretary acknowledges that it may be difficult to locate the requisite funds for programs that never have been captioned.

The Secretary agrees that the two-thirds limit generally should be applied to the total program hours captioned under the grant, rather than to each program hour.

Changes: Priority 1 has been changed to indicate that funds under this program may be used to support no more than two-thirds of the captioning costs of news and public information programs that have been captioned previously. Priority 4 has been changed to indicate that funds under this program may be used to support no more than two-thirds of the captioning costs of movies, miniseries, and special programs broadcast during prime-time on major national commercial broadcast networks. The references to each program hour and each program have been deleted.

Comment: One commenter stated that under the captioning priorities applicants should not be required to provide multiple letters of support to demonstrate willingness of major networks or providers of programs to permit captioning of their programs unless programs from multiple sources are included in the application.

Discussion: The Secretary agrees that it is only necessary to demonstrate the willingness of providers of programs covered by the particular project to permit captioning of their programs.

Changes: Priorities 1–4 have been changed to clarify that projects must demonstrate only the willingness of those networks or other providers of programs whose programs will be captioned under the project.

Comment: One commenter expressed concern regarding the difficulty of monitoring the actual delivery of captioned programs to individual viewers.

Discussion: The Secretary does not intend that projects monitor the delivery of captioned television to individual viewers. The monitoring referred to in priorities 1–4 focuses on the accurate, timely production and delivery of captions to relevant broadcast networks, cablecasters, and distributors of syndicated programs.

Changes: None.

Comment: Several commenters focused on ensuring that programs currently captioned remain captioned or that a greater number of captioned programs become available.

Discussion: As proposed, priorities 1, 3, and 4 address both expanding the number of programs captioned and ensuring that programs currently captioned remain captioned. The Secretary is aware of the interest in captioning a broader range of programs available on a variety of commercial, public, and cable networks or through

syndication. At the same time, the Secretary is committed to keeping programs currently captioned available to viewers who are hearing impaired. Thus, while priorities 1, 3, and 4 allow projects to include programs not previously captioned, these priorities also indicate that maintaining current captioning efforts will be an important factor in making awards.

Changes: None.

Comment: Three commenters suggested additional priority topics. One suggested a priority related to understanding and preparing for the effects of the Decoder Circuitry Act. One suggested a priority for captioning basic cable programs. A third suggested a priority for captioning educational programs for distance learning.

Discussion: The Secretary considers promoting understanding and preparation for the implementation of the Decoder Circuitry Act to be important and believes the proposed priorities address the most critical areas.The captioning of basic cable or distance learning programs may be pursued in future years.

Changes: None.

Priority 1—Closed-Captioned National News and Public Information

Comment: Two commenters urged that funds be set aside for emergency related programming and that full funding for captioning both emergency related programs and emergency announcements be available under these projects.

Discussion: The Secretary intends that emergency announcements and emergency related programs be captioned using funds from this program to cover all captioning costs, if necessary. It is anticipated that applicants under this program will provide for some emergency programming and that the Department of Education will work with projects to make additional adjustments, as necessary, during the course of the project period.

Changes: The term "emergency announcements" has been changed to "emergency programming" to clarify that full costs for captioning emergency related programming may be covered under these projects.

Comment: One commenter expressed concern about focusing a single priority on both maintaining and expanding news and information programs. This commenter suggested alternative ways to structure the priority to make smaller captioning companies more competitive.

Discussion: Though the priority focuses on both maintaining and expanding captioned news and public information programming, individual applicants may propose to caption only programs that are currently captioned, only programs that are not currently captioned, or both. Thus, the structure of this priority should not limit any potential applicant.

Changes: None.

Comment: One commenter expressed confusion as to whether captioning of cable or syndicate (including the Fox Broadcasting Company) programs shown nationally was permitted under this priority because these types of programs were not discussed in the background. Further, syndicated programs were not included under requirement (6).

Discussion: Captioned cable and syndicated news and public information programs were not mentioned in the background section because no programs of this type are currently captioned with funds from this program. Syndicated and cable news and public information programs shown nationally could be included in new projects as could programs shown nationally by other broadcast companies.

Changes: A reference to broadcast companies and providers of syndicated programs available nationally has been added to requirement (6).

Priority 2—Closed Syndicated Television Programming

Comment: One commenter suggested that the Secretary consider the extent to which syndicated programs, particularly "live" syndicated programs, currently captioned continue to be captioned.

Discussion: The Secretary recognizes that many syndicated programs have developed a large following of viewers who are hearing impaired and in making awards will consider the extent to which captioning is maintained on programs currently captioned.

Changes: The following sentence has been added to the background section: "In making awards the Secretary considers the extent to which syndicated programs currently captioned continue to be captioned."

Comment: One commenter requested clarification as to whether the term "individual stations" in the last sentence of the background section includes cable stations.

Discussion: Cable stations showing syndicated programming may be included as well as broadcast stations.

Changes: None.

Priority 3—Closed-Captioned Children's Programs

Comment: One commenter suggested expanding this priority to include programs released in the home video marketplace.

Discussion: Though access to home video is important for children who are hearing impaired, this particular priority is deliberately focused on making as many hours of television programming targeted for children as possible available to children who are hearing impaired.

Changes: None.

Comment: One commenter noted that some syndicated programs for children are currently captioned, yet this type of program was not included in the final sentence of the background section.

Discussion: The Secretary is aware that some syndicated programs for children are currently captioned and did not intend to exclude these programs from the final sentence of the background section.

Changes: The phrase "or currently captioned syndicated programs" has been added to the final sentence of the background section.

Comment: One commenter suggested that priority be placed on captioning programs such as "3–2–1 Contact" that encourage girls and children from minority backgrounds to enter fields of science.

Discussion: The program specifically referenced by the commenter is currently captioned under this program. As with other programs that are currently captioned, the Secretary will consider the extent to which this program will continue to be captioned in making awards. The Secretary is aware of no other, similar programs that are not captioned.

Changes: None.

Priority 4—Closed-Captioned Movies, Mini-Series, and Special Programs Broadcast or Shown During Prime-Time

Comment: Three commenters requested clarification as to whether funds under these projects could be used to caption one prime-time series per network as allowed under the current contract supporting captioning of prime-time movies, mini-series, and special programs.

Discussion: The priority as proposed allows projects to support up to two-thirds of the captioning costs for prime-time programs, other than movies, mini-series or special programs, on each major broadcast network for up to six months while private or other public sector support is sought. This can include prime-time series. This is to ensure that all prime-time programs on major broadcast networks are captioned. With the implementation of the Decoder Circuitry Act, the Secretary

does not anticipate that additional provisions for prime-time series will be required.

Changes: None.

Comment: One commenter recommended that major cable networks be included in the priority; another assumed that other companies broadcasting nationally such as the Fox Broadcasting Company were included.

Discussion: In making awards the Secretary will first consider the extent to which prime-time movies, mini-series, special programs, and other programs on each major national commercial broadcast network continue to be captioned. This is critical if prime-time programming on the major commercial broadcast networks is to remain captioned. However, in expanding the availability of closed-captioned movies, mini-series, and special programs, projects also may include these programs on cable or broadcast companies available nationally.

Changes: The first sentence has been changed to include prime-time movies, mini-series, and special programs on cable or broadcast companies available nationally. Requirement 7 also has been changed to indicate that projects must demonstrate the willingness of each network or broadcast company included in the application to permit captioning of their programs.

Priority 5—Symposium on Educational Media Technology Relating to Persons With Sensory Disabilities

Comment: One commenter recommended that the Secretary emphasize hands-on demonstrations for attenders of the symposium. Another commenter recommended that two additional objectives be added: 1) to provide a forum to exchange ideas regarding ways to deliver and improve instruction through educational media and technology and 2) to acquaint participants with the role of media and technology in improving opportunities for individuals with sensory disorders in adjusting to on-going changes in the workplace and society at large. The same commenter suggested that the initial symposium focus on educational applications of technology and a second one focus on a rehabilitative component. The commenter suggested a variety of other possible topics to be included and recommended that future symposia be held every two years.

Discussion: The Secretary recognizes the potential benefits of a symposium offering hands-on experience, as well as serving as a forum for exchanging ideas, and for acquainting participants with the role of media technology in adjusting to changes in the workplace and in society. The priority, as written, allows applicants to introduce creatively these and other objectives and topics in their applications. Since this priority was intended as a single symposium, it is premature to address this activity in terms of multiple years.

Changes: None.

Priority 6—Cultural Experiences for Deaf and Hard of Hearing Children and Youth

Comment: One commenter recommended that this activity be implemented in educational settings serving hearing and deaf students.

Discussion: This activity may be implemented in educational settings, but the Secretary sees no reason to restrict the settings in which this activity may be implemented, as long as program regulations are followed.

Changes: None.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary funds under this program only applications that meet these absolute priorities.

Absolute Priority 1—Closed-Captioned National News and Public Information

Background: This priority supports cooperative agreements to continue and expand closed-captioned national news, public information programs, and emergency programming, so that persons with hearing impairments can have access to up-to-date national morning, evening, and weekend news, as well as information concerning current events and other significant public information. In making awards, the Secretary will consider the extent to which programs on each major national commercial and public broadcast network continue to be captioned.

For news and public information programs that have previously been captioned, funds provided under this priority may be used to support no more than two-thirds of the captioning costs, except for short periods of time—up to six months—while private sector support is sought. Funds provided under this priority also may be used to support the costs for captioning additional news and public information programs or for emergency programming.

Priority: Projects must—(1) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, and cultural experiences of individuals with hearing impairments;

(2) Determine the total number of hours and the projected cost per hour for programs to be captioned;

(3) Identify for each proposed program to be captioned the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods of captioning to be used for each hour—indicating whether captioning is provided in real-time or offline—and the projected cost per hour for each method used;

(5) Provide and maintain back-up systems that will ensure successful, timely captioning service, despite possible national or regional emergency situations;

(6) Demonstrate the willingness of each major national commercial or public broadcast network, or each cable network, broadcast company, or provider of syndicated programs available nationally that is included in the project to permit captioning of its program by the project; and

(7) Implement procedures for monitoring the extent to which full and accurate captioning is provided, and use this information to make refinements in captioning operations.

Absolute Priority 2—Closed-Captioned Syndicated Television Programming

Background: This priority supports cooperative agreements for closed-captioning syndicated television programs, thereby making a variety of program available at different times, depending on the local broadcast or cable station. Syndicated programming includes both previously broadcast programs or series, as well as new programs distributed for showing on individual stations. In making awards the Secretary considers the extent to which programs currently captioned continue to be captioned.

Priority: Projects must—(1) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, and cultural experiences of individuals with hearing impairments;

(2) Determine the total number of hours and the projected cost per hour for programs to be captioned;

(3) Identify for each proposed program to be captioned the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods of captioning to be used for each hour—indicating whether captioning is to be provided in real-time, using live display, offline, or

reformatted—and the cost per hour for each method used;

(5) Provide and maintain back-up systems that will ensure successful, timely captioning service;

(6) Demonstrate the willingness of providers of syndicated programs included in the project to permit captioning of their programs; and

(7) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations.

Absolute Priority 3—Closed-Captioned Children's Programs

Background: This priority supports cooperative agreements for closed-captioning children's programs shown on national commercial and public broadcast networks, as well as syndicated and cable programs shown nationally, so that children who are deaf or hard of hearing will have access to popular children's programs. In making awards the Secretary will consider the extent to which programs on each major national commercial and public broadcast network and cable network targeting children's audiences or currently captioned syndicated programs continue to be captioned.

Priority: Projects must—(1) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, and cultural experiences of individuals with hearing impairments;

(2) Determine the total number of hours and the projected cost per hour for programs to be captioned;

(3) Identify for each proposed program to be captioned the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods of captioning to be used for each hour—indicating whether captioning is provided in real-time, live display, offline, or reformatted—and the projected cost per hour for each method used;

(5) Provide and maintain back-up systems that will ensure successful, timely captioning service;

(6) Demonstrate the willingness of each major network or providers of syndicated programs included in the project to permit captioning of their programs; and

(7) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations.

Absolute Priority 4—Closed-Captioned Movies, Mini-Series, and Special Programs Broadcast during Prime-Time

Background: This priority supports cooperative agreements to continue and expand the closed-captioning of movies, mini-series, special programs, and other programs broadcast during prime-time on major national commercial broadcast networks and to expand the closed-captioning of movies, mini-series, and special programs broadcast or shown during prime-time on cable or broadcast companies available nationally. In making awards the Secretary will consider the extent to which prime-time movies and other programs on each major national commercial broadcast network continue to be closed-captioned.

Funds provided under this priority may be used to support no more than two-thirds of the captioning costs for movies, mini-series, and special programs captioned on major national commercial broadcast networks. Funds also may be used to support no more than two-thirds of the captioning costs for other prime-time programs on each major national commercial broadcast network for short periods of time—up to six months—while private of other public sector support is sought. Finally, funds provided under this priority may be used to support the costs for captioning prime-time movies, mini-series, and special programs on cable or broadcast companies available nationally.

Priority: Projects must—(1) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational and cultural experiences of individuals with hearing impairments;

(2) Provide a flexible plan to assure closed-captioning of television programs without interruption, while accommodating last-minute program substitutions and new programs;

(3) Determine the total number of hours and the projected cost per hour for programs to be captioned;

(4) Identify for each proposed program to be captioned, the source of private or other public support and the projected dollar amount of that support;

(5) Identify the methods of captioning to be used for each hour—indicating whether captioning is provided in real-time, live display, offline, or reformatted—and include the projected cost per hour for each method used;

(6) Provide and maintain back-up systems that will ensure successful, timely captioning service;

(7) Demonstrate the willingness of each major national commercial broadcast network, or each cable or broadcast company available nationally that is included in the project to permit captioning of its programs; and

(8) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations.

Absolute Priority 5—Symposium on Educational Media Technology Relating to Persons with Sensory Disabilities

Background: This priority supports one cooperative agreement for a three-day symposium to (1) disseminate information related to current and future research and advances in the field of media technology for individuals with sensory impairments, and (2) provide recommendations for additional educational applications of this media technology. This technology includes, but is not limited to, speech recognition systems, video teleconferencing, telecommunications devices and system access, braille devices, descriptive video, and visible light spectrum. Findings from recent research in captioning technology also must be one of the focuses of the symposium. This symposium is consistent with the recommendations of the Commission on the Education of the Deaf, which studied the status of, and needed improvements in, education for individuals with hearing impairments.

Priority: This project must conduct a symposium that offers at least six commissioned presentations by professionals or experts in their respective areas, including, but not limited to, educational media and technology, advanced technology, media access, and rehabilitation engineering. The project must make arrangements for discussions and responses at the symposium by participants and for developing suggestions for implementing research findings and practical implications for new and advanced technology.

Following the symposium, the commissioned presenters must refine their papers, reflecting discussions at the symposium. The project must publish a proceedings document and distribute this document to symposium participants and relevant clearinghouses.

Absolute Priority 6—Cultural Experiences for Deaf and Hard of Hearing Children and Youth

Background: This priority supports cooperative agreements that will provide cultural experiences to enrich the lives of deaf and hard of hearing children and youth.

During FY 1992 the Department expects to fund projects that will (1) provide for the presentation of theatrical experiences for deaf and hard of hearing individuals, and (2) use an integrated approach by having among cast members a mixture of deaf, hard of hearing and hearing performers. This priority for FY 1993 is intended to extend these experiences to younger people with hearing impairments. Projects must actively involve children and youth with and without hearing impairments in cultural activities such as the production of a play or creation of a work of art. A grantee may not use funds under this priority for passive activities such as viewing a play or video produced by adults.

Priority: Projects must—(1) Use an integrated approach that mixes children and youth who are deaf, hard of hearing, and hearing in conducting theatrical or cultural activities or both; and

(2) Develop and implement strategies that will increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard of hearing individuals, including children, youth, and adults.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 1451, 1452.

(Catalogue of Federal Domestic Assistance Number: 84.026, Educational Media Research, Production, Distribution, and Training Program)

Dated: September 1, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-22733 Filed 9-18-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.026]

Educational Media Research, Production, Distribution, and Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: The purposes of this program are to promote the general welfare of the deaf, hard-of-hearing, and visually impaired individuals, and the educational advancement of individuals with disabilities.

These priorities support AMERICA 2000, the President's strategy for moving the Nation toward the National Educational Goals, by assisting those with disabilities in meeting Goal 1, school readiness, and Goal 5, adult literacy.

Eligible Applicants: Profit and nonprofit public and private agencies, organizations, and institutions are eligible to apply for a grant.

Note: The Department is not bound by any estimates in this notice.

Applications Available: October 30, 1992.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 332, as amended on October 22, 1991 at 56 FR 54702–54703.

EDUCATIONAL MEDIA RESEARCH, PRODUCTION, DISTRIBUTION, AND TRAINING

	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Closed-Captioned Movies, Mini-Series, and Special Programs Broadcast During Prime-Time (CFDA 84.026F).	3/03/93	5/03/93	$1,000,000	$250,000–1,000,000	$500,000	1 to 4	Up to 36.
Closed-Captioned Syndicated Television Programming (CFDA 84.026J).	5/05/93	7/06/93	1,200,000	500,000–700,000	600,000	2	Up to 36.
Symposium on Educational Media Technology Relating to Persons with Sensory Disabilities (CFDA 84.026M).	1/19/93	3/22/93	150,000	150,000	150,000	1	12.
Closed-Captioned National News and Public Information (CFDA 84.026P).	2/10/93	4/12/93	2,500,000	625,000–1,000,000	1,250,000	1 to 4	Up to 36.
Cultural Experiences for Deaf and Hard of Hearing Children and Youth (CFDA 84.026T).	2/01/93	4/05/93	300,000	75,000–100,000	100,000	3	Up to 36.
Closed-Captioned Children's Program (CFDA 84.026V).	4/21/93	6/21/93	1,000,000	250,000–1,000,000	500,000	1 to 4	Up to 36.

Priorities: The priorities in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, apply to these competitions.

For Application or Information Contact: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2644. Telephone (202) 205–9503. Deaf and hearing impaired individuals may call (202) 205–6170.

Program Authority: 20 U.S.C. 1451, 1452.

Dated: September 15, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-22732 Filed 9-18-92; 8:45 am]

BILLING CODE 4000-01-M

federal register

Monday
September 21, 1992

Part IV

Department of Education

Bilingual Vocational Instructor Training Program; Notice Inviting Applications for New Awards for Fiscal Year 1993

DEPARTMENT OF EDUCATION

[CFDA No.: 84.099]

Bilingual Vocational Instructor Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Bilingual Vocational Instructor Training Program provides financial assistance for preservice and inservice training for personnel participating in or preparing to participate in bilingual vocational education and training programs for limited English proficient individuals.

This program supports America 2000, the President's strategy for moving the Nation toward the National Education Goals, by helping to improve vocational education and training for limited English proficient adults. National Education Goal 5 calls for adult Americans to be literate and to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: State agencies or public and private non-profit educational institutions.

Deadline for Transmittal of Applications: December 11, 1992.

Deadline for Intergovernmental Review: February 9, 1993.

Available Funds: $450,000.

Estimated Range of Awards: $150,000–$300,000.

Estimated Average Size of Awards: $225,000.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR Part 428.

Invitational Priority

Under 34 FR Part 105(c)(1), The Secretary is particularly interested in applications that meet the following invitational priority:

Applications that address a national, regional, or statewide need for inservice training, rather than a purely local need for inservice training, for personnel in bilingual vocational education and training programs for individuals with limited English proficiency.

However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Content of the Application

An application must—

(a) Provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant;

(b) Propose a project of a size, scope, and design that will make a substantial contribution toward carrying out the purpose of the Bilingual Vocational Instructor Training Program;

(c) Describe the capabilities of the applicant, including vocational training or education courses offered by the applicant, accreditation, and any certification of courses by appropriate State agencies;

(d) Describe the qualifications of principal staff to be used in the bilingual vocational instructor training project;

(e) Describe the number of participants to be served, the minimum qualifications for project participants, and the selection process for project participants;

(f) Include the projected amount of the fellowships or traineeships, if any;

(g) Contain sufficient information for the Secretary to determine that the applicant has an ongoing vocational education program in the field in which participants will be trained, and can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training project; and

(h) Provide an assurance that preservice training will be provided to individuals who have indicated their intent to engage as personnel in a vocational education program that serves limited English proficient individuals.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the 15 points reserved in 34 CFR 428.20(b), as follows: 5 points to selection criterion (b)—Program design—in 34 CFR 428.21, for a total of 25 points for that criterion; and 10 points to selection criterion (g)—Dissemination plan—in 34 CFR 428.21, for a total of 20 points for that criterion.

(a) *Need.* (15 points)

(1) The Secretary reviews each application to determine the need for the proposed bilingual vocational instructor training project, including—

(i) The need for the project in the specific geographic area or areas to be served by the proposed project;

(ii) The training needs of program participants to be served by the proposed project;

(iii) How these needs will be met through the proposed project; and

(iv) The relationship of the proposed project to other ongoing personnel development programs in the geographic area or areas to be served by the proposed project.

(2) The Secretary reviews each application to determine the extent to which, upon completion of their training, program participants will work with programs that provide vocational education to limited English proficient individuals.

(b) *Program design.* (25 points) The Secretary reviews each application to determine the quality of the program design and the potential of the project to have a lasting impact on the geographic area or areas to be served by the proposed project, including—

(1) Potential to increase the skill level of program participants, with particular regard to the following areas:

(i) Knowledge of the needs of limited English proficient individuals enrolled in vocational education programs, and how

those needs should influence teaching strategies and program design.

(ii) Understanding of bilingual vocational training methodologies.

(iii) Techniques for preparing limited English proficient individuals for employment; and

(2) Potential to increase access to vocational education for limited English proficient individuals.

(c) *Plan of operation.* (15 points) The Secretary reviews each application for an effective plan of management that ensures proper and efficient administration of the project, including—

(1) Clearly defined project objectives that relate to the purpose of the Bilingual Vocational Instructor Training Program;

(2) For each objective, the specific tasks to be performed in order to achieve the specified project objective; and

(3) How the applicant plans to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the director and other key personnel to be used in the project;

(ii) The appropriateness of the time that each person referred to in paragraph (d)(1)(i) of this section will commit to the project; and

(iii) How the applicant, as part of its nondiscriminatory employment practices, will ensure that personnel will be selected without regard to race, color, national origin, gender, age, or disability.

(2) To determine personnel qualifications under paragraph (d)(1)(i) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience and training in project management; and

(iii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is sufficient to support the proposed project, and that it represents a cost effective use of Bilingual Vocational Instructor Training Program funds;

(2) Costs are necessary and reasonable in relation to the objectives of the proposed project; and

(3) The facilities that the applicant plans to use are adequate for the proposed project;

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the plan—

(1) Is clearly explained and appropriate for the bilingual vocational instructor training project;

(2) To the extent possible, is objective and will produce data that are quantifiable;

(3) Identifies outcomes of the project in terms of enrollment, completion and after-training work commitments of participants by sex, racial or ethnic group, and by level and kinds of language proficiency;

(4) Identifies expected learning and skills outcomes for participants and how those outcomes will be measured; and

(5) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results.

(g) *Dissemination plan.* (20 points) The Secretary reviews each application to determine the effectiveness and efficiency of the plan to disseminate information about the project and demonstrate project activities and results, including—

(1) High quality in its design and procedures for evaluating the effectiveness of the dissemination plan; and

(2) A description of the types of materials the applicant plans to develop and make available to help others replicate project activities, and the methods to be used to make the materials available.

Additional Factors

(a) After evaluating the applications according to the selection criteria, and consulting with the appropriate State board established under section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act, the Secretary determines whether the most highly rated applications are equitably distributed among populations of individuals with limited English proficiency within the affected State.

(b) The Secretary may select other applications for funding if doing so would improve the—

(1) Equitable distribution of assistance among populations of individuals with limited English proficiency within the affected State; or

(2) Geographical distribution of projects funded under this program.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the appendix to the Department's combined application notice, published elsewhere in this issue of the **Federal Register.**

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA# 84.099, U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to:

U.S. Department of Education,
Application Control Center, Attention: (CFDA# 84.099), Washington, DC 20202–4725).

or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to:

U.S. Department of Education,
Application Control Center, Attention: (CFDA# 84.099), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732–2495.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into five parts, plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions. (NOTE: The grantee should keep this form on file. It should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A.)

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and SIX copies of the application. Please mark each application as original or copy. Local or State agencies may choose to submit two copies with the original. No grant may be awarded unless a complete application form has been received.

FOR FURTHER INFORMATION CONTACT: Laura Karl Messenger, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–5565. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2441(b)

Dated: September 10, 1992.

Betsy Brand,

Assistant Secretary Office of Vocational and Adult Education.

BILLING CODE 4000–01–M

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:
U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 0 9 9
TITLE: Bilingual Vocational Instructor Training Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:
DATE _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate %)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the third 12-month budget period.

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personnel property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

BILLING CODE 4000-01-C

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that the applicant limit the program narrative to no more than 40 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. Be sure to number consecutively *ALL* pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

Applicants are advised that: (a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments that pertain to the established technical review criteria, such as commitment and resources.

Additional Materials

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0013, Washington, DC 20503. (Information collection approved under OMB control number 1830–0013. Expiration date: 2/28/95.)

BILLING CODE 4000-01-M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OM
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the Federal Register and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. May we use this same application to compete for funds under a different grant program?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the grant program to which it is submitted.

Q. I'm not sure which grant program is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various grant programs.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of grant programs with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors meeting, you may also wish to include a trip or two to Washington, D.C. in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," which must be completed, simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the Federal Register, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, most can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

Carl D. Perkins Vocational and Applied Technology Education Act (Public Law 101–392).

[FR Doc. 92–22734 Filed 9–18–92; 8:45 am]
BILLING CODE 4000–01–M

federal register

Monday
September 21, 1992

Part V

Department of Education

Bilingual Vocational Training Program; Inviting Applications for New Awards for Fiscal Year 1993; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.077]

Bilingual Vocational Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Bilingual Vocational Training Program provides financial assistance for bilingual vocational education and training for limited English proficient out-of-school youth and adults, to prepare these individuals for jobs in recognized occupations and new and emerging occupations.

This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by helping to improve vocational education and training for limited English proficient out-of-school youth and adults. National Education Goal 5 calls for adult Americans to be literate and to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, other nonprofit organizations specially created to serve or currently serving individuals who normally use a language other than English.

Deadline for Transmittal of Applications: December 11, 1992.

Deadline for Intergovernmental Review: February 9, 1993.

Available Funds: $2,250,000.

Estimated Range of Awards: $150,000–$250,000.

Estimated Average Size of Awards: $187,500.

Estimated Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR part 427.

Invitational Priorities: The Secretary is particularly interested in applications that meet the following invitational priorities. However, under 34 CFR 75.105(c)(1), an application that meets these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Instructional Staff

Applications that propose to use instructional staff currently employed by the applicant agency or institution(s), rather than request Federal funding for new instructional staff.

Invitational Priority 2—Support Services Funding

Applications that propose to use Federal funds available under Title II of the Carl D. Perkins Vocational and Applied Technology Education Act (the Act) to provide bilingual vocational training support services, such as bilingual aides, native language curriculum materials, and vocational English-as-a-Second-Language (VESL) learning center resources.

Invitational Priority 3—Coordinated Service Delivery

Applications that propose to operate a bilingual vocational training program by coordinating service delivery among providers and sharing existing resources, facilities, and staff.

Content of the Application: (a) An application must—

(1) Provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant;

(2) Propose a project of a size, scope, and design that will make a substantial contribution toward carrying out the purpose of the Bilingual Vocational Training Program;

(3) Contain measurable goals for the enrollment, completion, and placement of program participants;

(4) Include a comparison of how the applicant's goals take into consideration any related standards and measures in the geographic area for the Job Opportunities and Basic Skills Training (JOBS) program (42 U.S.C. 681 *et seq.*) and any Job Training Partnership Act (JTPA) programs (29 U.S.C. 1501 *et seq.*) and any standards set by the State Board for Vocational Education for the occupational and geographic area;

(5) Describe, for each occupation for which training is to be provided, how successful program completion will be determined and reported to the Secretary in terms of the academic and vocational competencies to be demonstrated by enrollees prior to successful completion and any academic or work credentials expected to be acquired upon completion; and

(6) Be submitted to the State board for vocational education (State board) established under section 111 of the Act for review and comment, including comment on the relationship of the proposed project to the State's vocational education program.

(b) An applicant shall include any comments received under paragraph (a)(6) of this section with the application.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the fifteen points, reserved in 34 CFR 427.20(b), as follows: 5 points to selection criterion (b)—Plan of operation—in 34 CFR 427.21(b) for a total of 20 points for that criterion; and 10 points to selection criterion (c)—Program factors—in 34 CFR 427.21(c) for a total of 30 points for that criterion.

(a) *Need.* (15 points) The Secretary reviews each application for specific information that shows the need for the proposed bilingual vocational training project in the local geographic area, including—

(1) The employment training need of limited English proficient individuals to be met;

(2) The labor market need to be met; and

(3) The relationship of the proposed project to other employment training programs in the community.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application to determine the extent to which the project proposes measurable goals for student enrollment, completion, and placement and describes how the applicant sets the goals taking into consideration the standards and measures for JOBS programs and JTPA programs and any standards set by the State Board established under section 111 of the Act for the occupation and geographic area.

(2) The Secretary reviews each application to determine the extent to which the project defines successful program completion (or describes how successful program completion will be defined and reported to the Secretary) in a way consistent with the goals of the program for each occupation for which training is to be provided.

(3)(i) The Secretary reviews each application for specific information that, upon completion of their training, more than 65 percent of the trainees will be employed in jobs (including military specialties) related to their training, or will be enrolled for further training related to their training under this program. This information must correspond to the information described in paragraph (a) of this section.

(ii) The estimated job placement rate must be supported by past records, actual employer job commitments, anticipated job openings, or other pertinent information.

(4) The Secretary reviews each application for an effective plan of management that ensures proper and efficient administration of the project, including—

(i) Clearly defined project objectives that relate to the purpose of the Bilingual Vocational Training Program;

(ii) For each objective, the specific tasks to be performed in order to achieve the specified project objective;

(iii) How the applicant plans to use its resources and personnel to achieve each objective; and

(iv) If the applicant plans to use a project advisory committee, a clear plan for using a project advisory committee to assist in project development, to review curriculum materials, and to make recommendations about job placements.

(c) *Program factors.* (30 points)

(1) The Secretary reviews each application to determine the quality of training to be provided, including—

(i) Provision of vocational skills instruction in English and the trainees' native languages;

(ii) Provision of job-related English-as-a-second language instruction;

(iii) Coordination of the job-related English-as-a-second language instruction with the vocational skills instruction;

(iv) Recruitment procedures that are targeted towards limited English proficient out-of-school youth and adults who have the greatest need for bilingual vocational training;

(v) Assessment procedures that evaluate the language and vocational training needs of the trainees;

(vi) Provision of counseling activities and employability skills instruction that prepare trainees for employment in an English language environment; and

(vii) Job development and job placement procedures that provide opportunities for career advancement or entrepreneurship.

(2) The Secretary reviews each application to determine the project's potential to have a lasting impact in the local geographic area, including the potential impact of the project on—

(i) Program participants;

(ii) The agency or agencies responsible for administering the bilingual vocational training program;

(iii) Other employment training services in the local area; and

(iv) The community.

(d) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the director and other key personnel to be used in the project;

(ii) The appropriateness of the time that each person referred to in paragraph (d)(1)(i) of this section will commit to the project; and

(iii) How the applicant, as part of its nondiscriminatory employment practices, will ensure that personnel will be selected without regard to race, color, national origin, gender, age, or disability.

(2) To determine personnel qualifications under paragraph (d)(1)(i) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience and training in project management; and

(iii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is sufficient to support the proposed project, and that it represents a cost effective use of Bilingual Vocational Training Program funds;

(2) Costs are necessary and reasonable in relation to the objectives of the proposed project; and

(3) The facilities, equipment, and supplies that the applicant plans to use are adequate for the proposed project.

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the plan—

(1) Is clearly explained and appropriate for the project;

(2) Identifies at a minimum, types of data to be collected and reported with respect to the English-language competencies and academic and vocational competencies demonstrated by participants and the number and kinds of academic and work credentials acquired by individuals who complete the training;

(3) Identifies at a minimum, types of data to be collected and reported with respect to enrollment, completion, and placement of participants by sex, racial or ethnic group, socio-economic status, and if appropriate, by level of English proficiency, for each occupation for which training is provided;

(4) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results; and

(5) Makes use of an external evaluator.

(g) *Demonstration and dissemination.* (10 points) The Secretary reviews each application for information to determine the effectiveness and efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(2) Provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for making available the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make

available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting others to adopt and successfully implement the project or methods and techniques used by the project.

Additional Factors: (a) After evaluating the applications according to the selection criteria and consulting with the appropriate State board established under section 111 of the Act, the Secretary determines whether the most highly rated applications are equitably distributed among populations of individuals with limited English proficiency within the affected State.

(b) The Secretary may select other applications for funding if doing so would improve the—

(1) Equitable distribution of assistance among populations of individuals with limited English proficiency within a State; or

(2) Geographical distribution of projects funded under this program.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the appendix to the Department's combined application notice, published elsewhere in this issue of the **Federal Register**.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA 84.077, U.S. Department of Education, room 4161, 400 Maryland Avenue SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications: (a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.077), Washington, DC 20202–4725.

or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.077), room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732–2495.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application Instructions and Forms: The appendix to this application is divided into five parts, plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions. (NOTE: The grantee should keep this form on file. It should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A.)

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as appendix B, to assist potential applicants.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and SIX copies of the application. Please mark each application as original or copy. Local or State agencies may choose to submit two copies with the original. No grant may be awarded unless a complete application form has been received.

For Further Information Contact: Laura Karl Messenger, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4512, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–5565. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2441(a).

Dated: September 10, 1992.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000-01-M

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 0 7 7

TITLE: Bilingual Vocational Training Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate %)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the third 12-month budget period.

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personnel property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

BILLING CODE 4000-01-C

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that the applicant limit the program narrative to no more than 40 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. Be sure to number consecutively all pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

Applicants are advised that:

(a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments that pertain to the established technical review criteria, such as commitment and resources.

Additional Materials

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0013, Washington, DC 20503. (Information collection approved under OMB control number 1830–0013. Expiration date: 2/28/95.)

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. May we use this same application to compete for funds under a different grant program?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the grant program to which it is submitted.

Q. I'm not sure which grant program is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various grant programs.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of grant programs with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors meeting, you may also wish to include a trip or two to Washington, DC in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," which must be completed, simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, most can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

Carl D. Perkins Vocational and Applied Technology Education Act (Public Law 101–392).

[FR Doc. 92–22735 Filed 9–18–92; 8:45 am]
BILLING CODE 4000–01–M

federal register

Monday
September 21, 1992

Part VI

Department of Education

34 CFR Part 305

Regional Resource and Federal Centers; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 305

RIN 1820-AB00

Regional Resource and Federal Centers

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations implementing the Regional Resource and Federal Centers program authorized by section 621 of the Individuals with Disabilities Education Act (IDEA). These proposed regulatory changes are needed to implement the guidelines and criteria developed by the Secretary based on recommendations from a panel convened in accordance with section 621(f)(1) of the Act. These proposed regulations would add requirements for the Regional Resource and Federal Centers related to the identification of and the provision of technical assistance on emerging issues and trends; clarify responsibilities related to linking and coordinating with other technical assistance providers as well as certain other entities; and assure that Regional Resource Center (RRC) evaluation measures include State capacity for improving services for students with disabilities.

This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by improving services for infants, toddlers, children, and youth with disabilities and, by so doing, helping them reach the high levels of academic achievement called for by the National Education Goals.

DATES: Comments must be received on or before October 21, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ms. Marie Roane, Department of Education, 400 Maryland Avenue, SW., room 4627, Switzer Building, Washington, DC 20202-2644.

A copy of any comments that concern information collection requirements should be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Marie Roane, Telephone (202) 202-8451. Deaf and hearing impaired individuals may call (202) 205-6170 for TDD services.

SUPPLEMENTARY INFORMATION: The Regional Resource and Federal Centers program provides assistance for projects designed to assist State educational agencies, and through those State educational agencies, local educational agencies and other appropriate public agencies providing special education, related services, and early intervention services to infants, toddlers, children, and youth with disabilities and their families. Public Law 101-476, amending the Individuals with Disabilities Education Act (IDEA), required that the Secretary convene a panel to develop, and publish in the **Federal Register** for review and comment, guidelines and criteria that include—

(1) A description of how the Regional Resource and Federal Centers program will be administered by the Secretary; (2) a description of the geographic region each Center is expected to serve; (3) a description of the role of a Center in terms of expected leadership and dissemination efforts; (4) a description of expected relationships with State agencies, research and demonstration centers, and other entities deemed necessary; (5) a description of how a Center will be evaluated; and (6) other guidelines and criteria deemed necessary.

In response to this directive, the Secretary convened a preliminary panel that included State special education directors from three States, State and local special education staff from the same three States, representatives of disability advocates, representatives of related technical assistance projects, Office of Special Education Programs (OSEP) staff, and Regional Resource and Federal Centers' directors. In a one-day meeting this group discussed the operation of the Regional Resource and Federal Centers program, the range of technical assistance needs within and among States and the specific issues described above. At the suggestion of the preliminary panel, these discussions were shared with a larger group of State special education directors for additional input as well as with a group of representatives of disability advocates. Finally, following the October 22, 1991, publication of regulations incorporating other changes to Section 621 of the IDEA, as amended by Public Law 101-476, several members of the preliminary panel, supplemented by additional representatives of disability advocates, convened by teleconference as the Regional Resource and Federal Centers' panel to propose criteria and guidelines based on the discussions during the various input meetings. The discussions related to each issue as well as any proposed guidelines or criteria are summarized below.

Summary of Discussions and Proposed Guidelines or Criteria

A Description of How the Regional Resource and Federal Centers Program Will be Administered by the Secretary

Discussion: There was little discussion related to this issue. The statute and the regulations allow the Secretary to provide assistance through grants, cooperative agreements, or contracts. The six RRCs are currently administered through cooperative agreements, while the Federal Center operates under a contract. None of the participants proposed changing the Secretary's use of this arrangement. Most felt that whatever mechanism was used should allow maximum flexibility for adjusting the activities of the Center to emerging issues and needs of States. Since the current options for administering the program provide this flexibility, the panel recommended that no change be made.

Proposed Changes: None. The Secretary will select the most appropriate arrangement for providing assistance, taking into account the need for flexibility in the operation of the Centers.

A Description of the Geographic Region Each Center Is Expected To Serve

Discussion: Currently the Secretary has established six regions in § 305.11. There was little discussion related to changes in the current regional structure. One person suggested reconfiguring the regions based on particular features of States, such as size, to facilitate the provision of technical assistance that meets the common needs of States in the region. Others suggested that a particular State might have needs similar to one group of States for one type of issue but significantly different needs on other types of issues. In general, the panel felt strategic linkages and collaboration across regions would allow States to flexibly focus on common issues, changing the mix of States as appropriate. After considering the issue, the panel recommended that no changes be made, but that linkage and collaboration across regions be encouraged.

Proposed Changes: None. However, the Secretary encourages linkages and collaboration across regions to better meet the needs of States with common issues.

A Description of the Role of a Center in Terms of Expected Leadership and Dissemination Efforts

Discussion: The preliminary panel emphasized the importance of the RRCs assuming a proactive leadership role, particularly related to assisting States in identifying emerging issues and trends and in shaping a vision to guide change efforts. The representatives of disability advocates stressed the importance of ensuring that the identification of emerging issues and needs was based on broad-based input that included a range of groups within a State. The Federal Center was identified as an important mechanism for synthesizing information about needs, issues, and trends across States and regions and providing a national perspective that RRCs can in turn share with States.

Change facilitation was also identified as an important role for RRCs. Specifically, it was felt that RRC assistance in problem identification, monitoring change efforts and providing feedback, was as important as the training, consultation, and other activities RRCs carry out to support changes in service systems for students with disabilities.

Dissemination was primarily addressed as a part of RRC efforts to keep States apprised of emerging issues and trends in special education and related fields. Issue briefs and topically focused syntheses of key research and practice information were viewed as more helpful than dissemination of long reports or collections of articles.

In considering these issues, the panel felt the RRCs should have the ability to perform a more active role in bringing about state-of-the-art practice while still taking into account differences among States and the need to respond to individual State issues. They recommended that the Federal Center periodically gather and summarize information from the field on emerging issues and trends. The panel felt that through the assistance of a panel established by the Federal Center, this information could be interpreted and provide a national picture that could be used to establish technical assistance activities that ensured that emerging and proactive needs as well as individual State-identified needs are addressed by the Regional Resource and Federal Centers program. The panel convened by the Federal Center would be broadly representative of the special education constituency including State educational agencies (SEAs), local educational agencies (LEAs), parents, professional organizations, and consumers. The panel particularly emphasized the importance of including individuals from minority backgrounds in this activity. Key issues and trends identified by the panel would lead to potential technical assistance through the mechanism of multi-regional activities developed through collaboration among the RRCs. Thus, the panel recommended that the regulations be amended to ensure that the FC gathers, summarizes, and, through use of a broadly based panel, interprets information on emerging issues and trends. They further recommended that the regulations provide for assistance by the RRCs related to both persistent problems and emerging issues and trends, to provide sufficient flexibility to meet the different needs of States.

Proposed Changes: The Secretary is proposing to amend § 305.10(b) to include assistance in identifying emerging issues and trends. Further, § 305.11 would be redesignated as § 305.12, and a new § 305.11 added describing the services required of the Federal Center. These would include identifying and synthesizing information on emerging issues and trends and establishing a broadly based panel to interpret this information and provide a national picture for establishing a technical assistance agenda within and across regions. The heading for § 305.31 and the first two paragraphs under § 305.31(a) are revised to insert selection criteria related to these activities. Dissemination activities are already required, and all of the other leadership and change facilitation activities are consistent with the current regulations.

A Description of Expected Relationships With State Agencies, Research and Demonstration Centers, and Other Entities Deemed Necessary

Discussion: The preliminary panel stated that clearly defined linkages among RRCs, SEAs, and other organizations were necessary to alleviate some of the conflicting and confusing expectations that currently occur as well as the potential for duplication. Establishing links with regular education and non-education entities was also viewed as important in strengthening the resources and networks of the RRCs. The importance of establishing linkages with health-related entities was stressed by the representatives of disability advocates as a way of providing information on complex, multifaceted service delivery issues.

The expected role and linkages of the Federal Center were specifically addressed in relation to this issue. The preliminary panel felt the FC provided a mechanism for linking with particular networks and entities on issues of national interest, and then sharing information with the RRCs. It was also noted that the expected linkages among federally funded projects needed to be clarified in the workscopes or agreements of the other entities as well as in those of the RRCs if they are to work. The efforts OSEP made to bring staff from all technical assistance and dissemination projects together on an annual basis and to facilitate networking were viewed as an important step in this process.

The panel also saw the Federal Center as key in linking and coordinating the RRCs with other technical assistance providers including health-related entities, organizations representing persons with disabilities, and parent projects. Information from these activities would be shared with the RRCs as well as with States.

Proposed Changes: The Secretary is proposing to include specific responsibilities for the Federal Center to link and coordinate the RRCs with each other and other technical assistance providers as well as organizations representing persons with disabilities and parent projects under the new § 305.11.

A Description of How a Center Will Be Evaluated

Discussion: The discussions related to evaluation centered around two major issues—the extent to which evaluation designs should focus on the impact of RRC activities at the State and local level, and other ways of measuring and reporting RRC effectiveness. Though the preliminary panel agreed that the ultimate impact of RRCs activities would be found at the local level, they also felt that local impact would result from changes in State capacity for improving services, and that measures of these changes was a more appropriate focus for evaluation. There was also general consensus from all groups that impact at the local level was difficult to measure because of the existence of so many other variables. Several State directors suggested that consumer satisfaction might be one measure of RRC effectiveness. Another suggested that annual accounting of State needs and technical assistance provided would serve as a good accountability tool.

The panel agreed that a primary focus of RRC evaluation should be changes in the State's capacity to work with LEAs in improving services for students with disabilities. Thus, they recommended that the evaluation activities required of RRCs focus on this dimension. They also

agreed that an annual accounting of the technical assistance provided by RRCs was useful, but determined that disseminating the annual performance reports required of projects under the Education Department General Administrative Regulations would easily suffice.

Proposed Changes: The Secretary is proposing to amend § 305.31(f)(2) to include evaluation information related to changes in State capacity to work with LEAs to improve services to students with disabilities in the target areas identified by the State and the RRC.

Other Guidelines and Criteria Deemed Necessary

Discussion: All of the participants in this process stressed the need for flexibility in the guidelines for the Centers, and the dangers of being overly prescriptive in developing the guidelines. At the same time, it was noted that current regulations for this program more specifically address the RRCs than the Federal Center.

Proposed Changes: In addition to the changes described above, changes are also proposed for the heading and introductory text to § 305.40 to clarify that the Federal Center is to perform the activities specified in this section.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small public agencies, institutions of higher education, and private nonprofit organizations receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 305.31 and 305.40 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Information described at § 305.31 and § 305.40 is required to be provided by applicants seeking support to conduct activities authorized under section 621 of the Individuals with Disabilities Education Act. This information will be used to determine grant eligibility, acceptability of proposals, and awards. Respondents eligible to submit applications are institutions of higher education, private nonprofit organizations, SEAs, public agencies, or combinations of these agencies and institutions.

Annual public reporting burden for this collection of information is estimated to average 32 hours per response for 15 respondents, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4627, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 305

Grant programs—education, State, State educational agencies, Infants, toddlers, children, and youth with disabilities, Early intervention, Special education and related services, Local educational agencies.

(Catalog of Federal Domestic Assistance Number 84.028, Regional Resource and Federal Centers)

Dated: June 1, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend part 305 of title 34 of the Code of Federal Regulations as follows:

PART 305—REGIONAL RESOURCE AND FEDERAL CENTERS

1. The authority citation for Part 305 continues to read as follows:

Authority: 20 U.S.C. 1421, unless otherwise noted.

2. Section 305.10 is amended by revising the heading to read as follows:

§ 305.10 What kinds of services are provided by Regional Resource Centers under this part?

* * * * *

3. Section 305.10(b) is amended by adding after the words "identifying and solving persistent problems" a comma and the words "and in identifying emerging issues and trends".

4. Section 305.11 is redesignated as § 305.12, and a new § 305.11 is added to read as follows:

§ 305.11 What kinds of services are provided by the Federal Center under this part?

The Federal Center shall—

(a) Provide a national perspective for establishing technical assistance activities within and across regions by identifying and synthesizing emerging issues and trends and establishing a panel to interpret this information. This panel must be broadly representative of the special education constituency, including representatives of State and local educational agencies, parent organizations, consumer and advocacy organizations, professional organizations, consumers, with particular attention being given to individuals from minority backgrounds. This information must be shared with Regional Resource Centers and State

educational agencies and may serve as a basis for multi-State and multi-regional technical assistance activities;

(b) Assist in linking and coordinating the Regional Resource Centers with each other and with other technical assistance providers, including health-related entities as well as organizations representing persons with disabilities, professional organizations, and parent projects. Information from these activities must be shared with the Regional Resource Centers as well as the States;

(c) Provide information to, and training for, agencies, institutions, and organizations regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under Parts C through G of the Act, and make that information available to the Regional Resource Centers on request;

(d) Give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds and exchanging information with and, if appropriate, cooperating with other centers addressing the needs of these children; and

(e) Provide assistance to State educational agencies, through Regional Resource Centers, for the training of hearing officers.

(Authority: 20 U.S.C. 1421)

§ 305.30 [Amended]

5. Section 305.30 is amended by adding the words "and § 305.11" after "in § 305.10".

6. Section 305.31 is amended by revising the heading, paragraphs (a) (1) and (2), and paragraph (f)(2) to read as follows:

§ 305.31 What are the selection criteria for evaluating applications under this program?

* * * * *

(a) * * *

(1) The Secretary reviews each application for a Regional Resource Center for information that shows the needs of the States in the region and support for the applicant's project by the agencies to be served by the project.

(2) The Secretary reviews each application for a Federal Center for information that identifies potential issues and trends of national concern and procedures for obtaining broad based input in validating, interpreting, synthesizing, and updating information on emerging issues and trends on a regular basis.

(f) * * *

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project, and, to the extent possible, are objective and produce data that are quantifiable. For Regional Resource Centers, evaluation methods must include evaluation of changes in State capacity to work with local educational agencies to improve services for students with disabilities.

* * * * *

7. In § 305.40 the heading and introductory text are revised to read as follows:

§ 305.40 What additional activities must each Center perform?

Each Regional Resource or Federal Center shall—

* * * * *

[FR Doc. 92-22704 Filed 9-18-92; 8:45 am]
BILLING CODE 4000-01-M

federal register

Monday
September 21, 1992

Part VII

Department of the Interior

Bureau of Indian Affairs

Availability of Final Environmental Impact Statement (FEIS) for the Interstate 5/88th Street Northeast Interchange Project; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Availability of Final Environmental Impact Statement (FEIS) for the Interstate 5/88th Street Northeast Interchange Project Serving the Tulalip Indian Reservation, Snohomish County WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a Final Environmental Impact Statement (FEIS) was filed with the EPA on February 3, 1992 and is available for public review regarding the proposed construction of a full-diamond interchange as added access to Interstate 5 (I–5) and an expanded road network at 88th Street Northeast in Snohomish County, Washington to improve traffic circulation on the Tulalip Reservation and throughout the nearby City of Marysville and surrounding Snohomish County, and to facilitate the Tulalip Tribes' economic development by providing direct freeway access to industrial and commercial properties located on the Reservation. This notice is furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR part 1503).

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, Department of the Interior, in cooperation with the Tulalip Tribes of Washington, the Washington State Department of Transportation, the Federal Highways Administration, the Snohomish County Department of Public Works, the City of Marysville Department of Public Works, and the Snohomish County Public Transportation Benefit Area Corporation (Community Transit) has prepared the Final EIS which includes minor modifications to the proposed action based on public comment, new regulations, and further analysis. Responses to all public comments and statements given at public hearings are also included.

The EIS describes and analyzes four alternatives for the proposed project. Under the Preferred Action Alternative a full-diamond interchange with east-west access would be constructed on I–5 at 88th Street northeast (Milepost 200.7), access to 35th Avenue (an I–5 frontage road northeast of the interchange) would be relocated, improvements would be made to 88th Street Northeast to the east and west of the interchange ramps, and a new bridge would be constructed over Quilceda Creek east of the interchange. The environmental information developed for a possible park-and-ride lot on 88th Street Northeast will be used as baseline data in a future site selection process. The park-and-ride site is not a part of the proposed project.

ADDRESSES: Copies of the Final EIS are available for review at the following locations:

Marysville Public Library, 4822 72nd Street NE., Marysville, WA 98270
Everett Main Library, 2702 Hoyt Avenue, Everett, WA 98201
Puget South Agency, Bureau of Indian Affairs, Federal Building, 3006 Colby Avenue, Everett, WA 98201
Tulalip Tribes Planning Department, 6700 Totem Beach Road, Marysville, WA 98271
Marysville Department of Public Works, 80 Columbia Avenue, Marysville, WA 98270
Snohomish County Public Works Department, 2829 Rucker Avenue, Everett, WA 98201

Comments on the environmental documents or the project will be accepted by the Bureau of Indian Affairs (BIA) for a 30-day period ending October 2, 1992 after which time the BIA will prepare and issue a Record of Decision. Your comments will be considered in arriving at BIA's decision on the interchange project. Please send your comments to: Mr. Ronald Eggers, Area Environmental Officer, Portland Area Office, Bureau of Indian Affairs, 911 Northeast 11th Avenue, Portland, OR 97232–4169.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald J. Eggers, Area Environmental Officer, Portland Area Office, Bureau of Indian Affairs, 911 Northeast 11th Avenue, Portland, Oregon 97232–4169. Telephone (503) 231–2208 or FTS 429–2208.

Dated: September 15, 1992.

William D. Bettenberg,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92–22812 Filed 9–18–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
September 21, 1992

Part VIII

Department of Agriculture

Agricultural Stabilization and Conservation Service
Commodity Credit Corporation

7 CFR Parts 723 and 1464
Tobacco; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AC78

Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts, with technical changes, a proposed rule which was published in the Federal Register on June 29, 1992 (57 FR 28801). The proposed rule proposed several changes to enhance the enforcement of the federal price support program for tobacco. The rule proposed: (1) Adding new letter of credit requirements for dealers; (2) adding new provisions to deal with carryover credit for damaged tobacco; (3) providing for new enforcement measures for liens and for holding related persons liable for tobacco penalties; and (4) adding new provisions for suspension of dealer cards and penalty assessments, and (5) to provide rules for determining when a producer, by cash advance or other preauction arrangement, will be determined to have sold the tobacco preauction so as to make use of the producer's marketing card thereafter for that tobacco improper. The proposed changes were described in detail in the June 29 rule.

EFFECTIVE DATE: September 21, 1992.

FOR FURTHER INFORMATION CONTACT: (1) With respect to part 723: Mike Thompson, Agriculture Program Specialist; and (2) With respect to part 1464: Gary W. Wheeler, Tobacco Marketing Specialist. Their address is: Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013-2415, telephone: (Wheeler) 202-720-7562; (Thompson) 202-720-4281.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512-1 and has been classified as "not major."

It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC) are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of final rulemaking with respect to the subject matter of this rule.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive and preempts State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under the provisions of 7 CFR parts 723 and 1464, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

This final rule imposes a new information collection requirement in § 723.401, effective beginning with the 1992 burley tobacco marketing year. The contents of and justification for this reporting requirement have been approved through August 31, 1995, by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980, as amended, and assigned OMB No. 0560-0058. Public reporting burden is estimated to average 45 minutes per response.

Background

The federal marketing quota and price support programs for tobacco are provided for in the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949. Rules for the programs appear at 7 CFR parts 723 and 1464. In the proposed rule published on June 29, 1992, a number of new enforcement measures were proposed due to recent activities indicating a need for stronger regulatory provisions and for other changes to increase the certainty of adherence to the program rules and to improve program operation. These measures included covering the following:

(1) Liens for penalties;

(2) Producer advances;

(3) The liability for penalties for persons related to or affiliated with the violator;

(4) Letter of credit requirements for dealers to insure program performance;

(5) Accounting for damaged tobacco;

(6) Suspending dealer identification cards; and

(7) Delegations for penalty assessments.

Comments

The comment period closed on July 14, 1992. Four comments were received, the commenters being a producer-owned tobacco association, two tobacco trade organizations, and a state farm organization. All four comments supported the rule. After reviewing the rule it was determined, accordingly, that the proposal should be adopted as set out in the June 29 rule with technical corrections to improve clarity or correct grammatical errors. Additional revisions will be proposed or adopted over time as may appear to be needed or appropriate to accomplish the goals of the program and to protect the interest of tobacco producers and the public.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Loan programs/agriculture, Price support programs, Tobacco, Warehouses.

Accordingly, 7 CFR parts 723 and 1464 are amended as follows:

PART 723—TOBACCO

1. The authority citation for part 723 is revised to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314c, 1314d, 1314f, 1314h, 1315, 1316, 1363, 1372–75, 1377–79, 1421, 1445–1, and 1445–2.

2. Section 723.104(b) is amended by revising the terms "damaged tobacco" and "nonauction sale" to read as follows:

§ 723.104 Definitions.

* * * * *

(b) *Terms.* * * *

* * * * *

Damaged tobacco. Any tobacco that has suffered a loss of value due to deterioration resulting from a cause such as rot, separation of leaves from stems, fire, smoke, water, or other conditions that would cause such tobacco to be distinguishably different from that normally marketed in trade channels.

* * * * *

Nonauction sale. Any marketing of tobacco other than at an auction sale.

* * * * *

3. Section 723.311 is revised to read as follows:

§ 723.311 Lien for penalty; liability of persons who are affiliated with indebted person or who permit the indebted person to use their identification card.

(a) *Lien on tobacco.* Until the amount of any marketing quota penalty imposed under this part is paid, a lien shall exist in favor of the United States for the amount of the penalty on:

(1) The tobacco with respect to which such penalty is incurred; and

(2) Any other tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest and which is marketed in the same or a subsequent marketing year.

(b) *Lien precedence.* The lien, described in paragraph (a) of this section, attaches at the time that the penalty is assessed. As to third parties, in the event of a lack of actual notice of the lien, then notice shall be deemed to occur when:

(1) In the case of indebted producers, the debt is entered on the debt record maintained by the county ASCS office of the county in which the tobacco was grown;

(2) In the case of an indebted warehouse operator, the debt is entered on the debt record of the State ASCS office for the State in which the warehouse is located; and

(3) In the case of an indebted dealer, the debt is entered on the debt record of the State ASCS office for the State in which the dealer is required to file reports.

(c) *Availability of list of marketing quota penalty debts.* Each county and State ASCS office shall maintain a list of tobacco marketing penalty debts which have been entered on the debt record in their office. The list shall be available for examination upon request by any interested person.

(d) *Liability for penalty owed by another person.* (1) When a penalty in excess of $10,000 is incurred under this part by an entity, all persons who have a substantial ownership interest in the entity shall be jointly and severally liable with the entity for the payment of such penalty, unless it is demonstrated to the satisfaction of the Deputy Administrator that the violation was inadvertent. Substantial ownership interest shall be deemed to be any ownership interest greater than ten percent.

(2) A dealer or warehouse operator who permits an indebted person to use such dealer's or warehouse operator's identification card to market tobacco shall be liable for the amounts due by the indebted person to the United States under this part up to the amount of the value of the tobacco so marketed. In addition, unless the Deputy Administrator determines otherwise, any persons or person, who as a warehouse operator or dealer becomes affiliated with any person who at the time of affiliation is indebted under this part to the United States, shall be liable for the amount of the debt owed to the United States by the person with whom such person or persons become affiliated up to the amount of the value of any tobacco which is marketed by such affiliated warehouse operator or dealer during the time of the affiliation with the indebted person. Affiliation may include any relationship in which the parties have a common interest in tobacco, or in an enterprise or entity involved in the marketing, processing, or handling of tobacco, or where the parties both hold a position of responsibility or ownership in such an enterprise or entity, or where there is common ownership of a business involved in the transaction. A warehouse operator or dealer may also be considered to be affiliated with an indebted person when such warehouse operator or dealer is associated with a person who is both:

(i) An employee or otherwise authorized to buy and sell tobacco for such warehouse operator or dealer; and

(ii) An indebted person or at the time of indebtedness incurred by an entity was a substantial owner or an officer of the indebted entity.

Affiliation may also be deemed to occur where parties have traded in tobacco under circumstances which indicate that there may be a lack of arm's length trading between the parties such as where the parties engage in casual or undocumented transactions in significant quantities of tobacco, or where the parties have traded in tobacco with each other without a movement of the tobacco, or where there is a trading in tobacco without documentation of a significant exchange of money, or other circumstances which indicate an affiliation. Where questions of affiliation arise, it shall be the burden on the parties involved to show that trading in such tobacco was conducted in accordance with normal trade practices and was not part of a scheme or device to avoid payments of sums due the United States or the CCC.

(e) *TMQ lien notation.* Upon notification that a TMQ lien has been established, the producer marketing card (MQ–76) or dealer identification card (MQ–79–2) shall be returned immediately to the issuing office for recording the TMQ lien. Failure to immediately return the applicable card will result in ASCS notifying all registered warehouse operators and dealers of the TMQ lien information and of their responsibilities for collecting the TMQ lien. The card shall be promptly returned to the producer or dealer after it is annotated with the TMQ lien.

4. Section 723.401 is amended by revising the section heading, revising paragraphs (b) and (c), and by adding paragraphs (d) and (e) as follows:

§ 723.401 Registration of burley and flue-cured tobacco warehouse operators and dealers.

* * * * *

(b) *Dealer registration.* Each person who expects to deal in burley or flue-cured tobacco during a marketing year shall complete a Dealer Application and Agreement (MQ–79–2–A) annually, except dealers who are exempt from maintaining or filing records and reports as provided in § 723.405. The application must be filed after March 1 of the calendar year in which the marketing year begins, and shall be filed with the State ASCS office or, if designated by the State Executive Director, the county ASCS office for the county where the dealer resides or where the dealer's principal business is located. The applicant shall provide the names, and such other information as required by the Deputy Administrator, of all other persons who will be authorized to use the dealer identification card (MQ–79–2). A dealer entity is limited to one dealer registration number. Persons affiliated with another dealer of the same household shall not be eligible for a dealer registration number unless the Deputy Administrator determines that the entities or individuals are separate and independent.

(c) *Approval of application and agreement.* The State Executive Director of the State ASCS office shall, under the direction of the Deputy Administrator, be the approving official for the Dealer Application and Agreement. If the approving official has reason to doubt that the applicant is a bona fide dealer or intends to become a bona fide dealer, the application may be disapproved until such time as the applicant furnishes information satisfactory to the State ASC committee that the application is bona fide. An application shall also be disapproved for any person who has failed to file reports or permit inspections required in § 723.404(d)(9). A person whose application is disapproved shall be provided with the opportunity to appeal the disapproval and to furnish information to substantiate the application or to comply with other requirements in § 723.404.

(d) *Letter of credit or bond*—(1) *General requirements.* Effective with the beginning of the 1992 marketing year for burley tobacco and with the 1993 marketing year for flue-cured tobacco, in order to secure the payment of penalties as may be incurred by a dealer during the marketing year for which approval as a dealer is sought, each dealer, as a condition for final approval to handle tobacco, must present a letter of credit or bond which is determined by the Deputy Administrator to be acceptable security and which meets the dollar requirements of this section. The letter of credit or bond shall be submitted to the State ASCS office where the dealer is registered. A letter of credit must have been issued by a commercial bank insured by the Federal Deposit Insurance Corporation. A bond must be a surety bond insured by a bonding company or agent licensed in the State where the dealer is registered. The letter of credit or bond must be in the form and have the content specified by the Deputy Administrator. A letter of credit or bond shall be furnished annually after initial approval of the dealer's application and notification of the amount required. The dealer identification card shall not be issued until it is determined that acceptable security has been presented.

(2) *Amount Required.* The base amount of the letter of credit or bond shall be the larger of:

(i) $25,000 or

(ii) the sum of the amounts determined by multiplying the respective pounds of burley and flue-cured tobacco purchased by the dealer during the preceding marketing year by 10 percent of the marketing year penalty rate for the respective kind of tobacco involved for the relevant year with the resulting amount not to exceed $100,000.

A dealer shall submit the letter of credit or bond for the base amount plus an amount equal to the amount of any unpaid tobacco marketing quota penalty owed by such dealer. The amount shall also be increased by $5,000 for each 10,000 pounds of tobacco for which the dealer has failed to file reports or filed false reports in violation of § 723.404 for the 3 previous marketing years. The Deputy Administrator may reduce the amount of security required in order to avoid undue hardship and shall make provision for release of the letter of credit or bond at the appropriate time.

(e) *Suspension and surrender of dealer card.* The dealer identification card shall be surrendered upon demand of the ASCS. Failure to comply with the provisions of §§ 723.404 or 723.414 or with other material provisions of this part shall be cause for suspension of the dealer identification card and the dealer shall be given 15 days to complete all necessary compliance measures or to show cause why the card should not remain suspended.

5. Section 723.403 is amended by revising paragraph (k)(3)(i) and adding paragraph (k)(5)(iv) to read as follows:

§ 723.403 Auction warehouse operators' records and reports.

* * * * *

(k) * * *

(3) * * *

(i) Report on the final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, provided further that if on inspection it is determined that there is damaged tobacco in the warehouse or otherwise on hand, no carryover credit for the next marketing year shall be allowed for the damaged tobacco and the amount of pounds of damaged tobacco shall be deducted from the operator's purchase credit for the current year.

* * * * *

(5) * * *

(iv) If upon reinspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco, the pounds of damaged tobacco shall be deducted from the purchase credit, if not done so previously, and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

6. Section 723.404 is amended by adding paragraph (d)(5)(v) and a sentence at the end of paragraph (d)(7) as follows:

§ 723.404 Dealer's records and reports, excluding cigar tobacco buyers.

* * * * *

(d) * * *

(5) * * *

(v) If upon inspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco according to § 723.104, such amount of pounds shall be deducted from the purchase credit and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

(7) * * * If upon reinspection by a representative of ASCS, there is an amount of tobacco determined to be damaged tobacco under § 723.104, such amount of pounds shall be deducted from the purchase credit and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

* * * * *

7. Section 723.406 is amended by revising paragraph (a) to read as follows:

§ 723.406 Provisions applicable to damaged tobacco and to purchases of tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouse operator, or other person who intends to purchase damaged tobacco shall notify the State ASCS office where the warehouse operator or dealer is registered or should be registered. Such report must be made at least 2 business days in advance of the purchase so as to allow for inspection arrangements to be made. The inspection shall be conducted by an ASCS representative and no purchase credit shall be allowed the buyer for the quantity determined to be damaged tobacco. Damaged tobacco may be disposed of without incurring a penalty only if the tobacco is destroyed and the destruction is witnessed by an ASCS representative or the tobacco is sold directly to a processor or manufacturer and such sale is reported to the same State ASCS office. Any tobacco not disposed of in that manner shall be deemed to have been a marketing of excess tobacco and will be subject to a penalty at the full penalty rate for the quantity of tobacco involved.

* * * * *

8. Section 723.408 is amended by adding a new paragraph (a)(3) to read as follows:

§ 723.408 Producer's records and reports.

(a) * * *

(3) Any report of a marketing of tobacco by a producer or any use of

producer's marketing card to sell the tobacco or the pledge the tobacco for a price support loan shall be considered the filing of a false report by the producer and, in addition to other remedies as may apply, the remedies provided in paragraph (a)(1) of this section shall apply, if, under the provisions of part 1464 of this title, the producer was not considered to have been an "eligible producer" with respect to such marketing or other disposition of tobacco.

* * * * *

9. Section 723.409 is amended by revising the heading for paragraph (b), adding a new paragraph (b)(4) to read as follows, and amending paragraph (f) by inserting after the words "current marketing" the word "year".

§ 723.409 Producer penalties; false identification and related issues.

* * * * *

(b) *Penalties for false identification or failure to account.*

* * * * *

(4) In addition to any other circumstances in which a penalty may be assessed under this part, the marketing or pledging for a price support loan of any tobacco by using the producer's marketing card, when the producer is not considered to have been an "eligible producer" under the provision of part 1464 of this title, shall be considered to be a false identification of tobacco. This remedy shall be in addition to all other as may apply.

* * * * *

10. Section 723.410 is amended by revising the section heading and adding a new paragraph (n) to read as follows:

§ 723.410 Penalties considered to be due from warehouse operators, dealers, buyers, and other excluding the producer.

* * * * *

(n) *Advances and other cases in which the producer's marketing card is used improperly.* For tobacco of any kind to which this part applies, if tobacco is marketed by a person by using the producer's marketing card or the tobacco is pledged for a price support loan by using that card, but under the provisions of part 1464 of this title, the producer is deemed to have not been an "eligible producer" with respect to the disposition of that tobacco at the time because of an advance or other preauction arrangement, such disposition of the tobacco shall be considered a false identification of the tobacco and may be considered to be a marketing of excess tobacco. In such cases, the person who paid the advance, took possession of the tobacco, or made the agreement with the producer which made the producer no longer an "eligible producer" with respect to the tobacco, shall be jointly and severally liable with the producer for any penalty with respect to such disposition which is levied against the producer under the provisions of this part and additionally, if such disposition is determined to be a marketing of excess tobacco, shall be liable for a penalty calculated by using the penalty rate for the tobacco involved multiplied by the pounds of tobacco involved. These remedies shall be in addition to any other remedies which may apply, including but not limited to, any liability for a refund of any price support loan advances which were paid in the name of, or for the account of, the producer of the tobacco.

PART 1464—TOBACCO

11. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1308, 1441, 1445, 1445–1, 1421, and 1423; 15 U.S.C. 714b, 714c.

12. Section 1464.7 is amended by adding paragraph (e) to read as follows:

§ 1464.7 Eligible producer.

* * * * *

(e) With respect to any tobacco which is presented for price support, must have retained beneficial interest in the tobacco prior to presenting the tobacco for such loan.

(1) For purposes of this section, the producer will be considered to have retained beneficial interest in the tobacco only if such producer has complete control of and title to such tobacco, including the right to tender such tobacco to CCC for a price support loan on the date such tobacco is tendered to CCC for a price support loan, and has maintained this right and that interest in the tobacco at all times prior to presenting the tobacco for the loan.

(2) If a producer receives a monetary advance or other consideration in connection with or for such tobacco, the producer will be deemed for purposes of this section to have lost beneficial interest in such tobacco unless the producer has a written agreement with the person who provides the advance payment or consideration and such agreement accurately and fully:

(i) Sets forth the amount, nature and date of the advance or consideration;

(ii) Sets forth the poundage on which the advance or consideration was made;

(iii) Provides that the tobacco will be sold at a producer auction through an auction warehouse at which price support is provided, or will be presented for a price support loan;

(iv) Provides that as a full and final settlement on the tobacco, the full sales price at the producer auction or the full loan proceeds will be paid to the producer minus only the following:

(A) Any advance set out in the agreement; and

(B) Standard published assessments or charges for services rendered at standard published rates that apply to all tobacco of all producers, including tobacco for which no advance has been paid;

(v) Sets forth the date of final settlement to be made on the tobacco which date can be no later than the date applicable to tobacco on which no advance has been made.

(vi) States that the full profit and beneficial interest in the tobacco, and full control of the tobacco, remains with the producer and provides that the full profit and beneficial interest will remain with the producer at all times prior to any disposition of the tobacco as producer tobacco, or at a producer auction, or presenting for a price support loan.

(3) A producer will be considered to have lost beneficial interest in tobacco and thereby not be an "eligible producer" for such tobacco as of the date any advance or other preauction arrangement was made if CCC determines for that tobacco that:

(i) The advance per pound equalled or exceeded the producer's final net proceeds per pound on all tobacco marketed from the farm for that marketing year at producer auctions, including any tobacco on which an advance is made or the pledging of tobacco for price support loans;

(ii) A written agreement was required by paragraph (e)(2) of this section, but none has been executed; or

(iii) A written agreement was executed but did not meet the requirements of paragraph (e)(2) of this section.

(4) If tobacco is pledged for a price support loan and the producer is not then or thereafter deemed to be or to have been an eligible producer for that tobacco for purposes of placing the tobacco under such loan, then the tobacco shall be considered to have a loan value of zero. The producer and the person that took possession of the tobacco from the producer, or paid an advance, or marketed the tobacco, or disposed of the tobacco as producer tobacco, shall be jointly and severally liable with the producer for returning any loan proceeds previously paid in the name of, or for the account of, the producer. Further, the disposition of any tobacco as producer tobacco where the

producer is not then or thereafter considered to have been an eligible producer with respect to such tobacco may be the subject of penalties on the grounds of false identification, excess marketings, or otherwise as provided in part 723 of this title. These remedies are in addition to any others as may apply.

13. Section 1464.8 is amended by adding paragraph (i) to read as follows:

§ 1464.8 Eligible tobacco.

* * * * *

(i) Any tobacco with respect to which the producer is not an eligible producer under the provisions of § 1464.7 shall not be eligible for a price support loan and in any case in which the producer is deemed to have ceased to have retained the status of an eligible producer due to an advance or other preauction arrangement, the producer's marketing card shall not be used to market such tobacco except to reflect a nonauction marketing to the person who paid an advance to the producer or took possession of the tobacco from the producer.

§ 1464.10 [Amended]

14. In section 1464.10, paragraph (j)(4) is amended by inserting after the words "Deputy Administrator" the words ", or the Deputy Administrator's designee,".

Signed at Washington, DC, on September 11, 1992.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-22648 Filed 9-18-92; 8:45 am]

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federal register

Monday
September 21, 1992

Part IX

Department of the Interior

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement, Crow Creek Indian Reservation, SD; Notice

DEPARTMENT OF THE INTERIOR

Notice of Intent to Prepare An Environmental Impact Statement on the Renovation of Crow Creek Dam on Crow Creek Indian Reservation in South Dakota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the renovation of Crow Creek Dam. Public meetings regarding this proposal will also be held. A description of the proposed project, location and environmental considerations to be addressed in the EIS is provided below (see Supplemental Information). In addition, two public scoping meetings regarding the proposal and the preparation of the EIS will be held (additional details are provided below). This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by November 30, 1992. Scoping meetings to identify issues and alternatives to be evaluated in the EIS will be held on September 30, 1992, at the Tribal Headquarters, Fort Thompson, South Dakota, at 1 p.m.; and on September 30, 1992, at Al's Oasis Restaurant meeting room, Oacoma, South Dakota, at 7 p.m. Comments and participation in the scoping process are solicited and should be directed to the Bureau of Indian Affairs at the address provided below.

ADDRESSES: Comments should be addressed to Dr. Jerry L. Jaeger, Area Director, Bureau of Indian Affairs, 115 4th Ave., SE, Aberdeen, South Dakota 57401. Scoping meetings will be held on September 30, 1992, at the Tribal Headquarters, Fort Thompson, South Dakota, at 1 p.m.; and on September 30, 1992, at Al's Oasis Restaurant meeting room, Oacoma, South Dakota, at 7 p.m.

FOR FURTHER INFORMATION CONTACT: Ken Salo, Morrison-Maierle/CSSA, P.O. Box 6147, Helena, Montana 59604, telephone (406) 442–3050.

SUPPLEMENTARY INFORMATION: Crow Creek dam is in need of major repairs in order to minimize potential safety hazards. Repair to spillway and outlet structures will not change previously established lake levels. Crow Creek has been rated as high hazard in accordance with dam safety standards.

Environmental issues to be addressed in the EIS are expected to include topography, geology, hydrology, water quality, biological resources, land use, noise, and health and safety. Alternatives being considered are: renovating which would leave the dam similar to original design; lowering of lake level and reservoir function change; and permanent breaching of the dam.

The reservoir has trapped a great deal of sediment of which a significant portion will eventually be lost to Lake Francis Case on the Missouri River. A detailed study will be focused on the effects of this sediment movement.

Potential reservoir use and the resulting cultural and environmental effects will be among the main issues covered during the scoping and planning process.

The environmental review of this project will be conducted in accordance with the requirement of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR, Parts 1500–1508), and Department of the Interior procedures (516 DM 1–6) for compliance with those regulations.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: September 9, 1992.

David J. Matheson,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–22830 Filed 9–18–92; 8:45 am]

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federal register

Monday
September 21, 1992

Part X

Department of Agriculture

Food Safety and Inspection Service

9 CFR Part 381
Irradiation of Poultry Products; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket 90-011F]

RIN 0583-AB27

Irradiation of Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the poultry products inspection regulations to permit the use of ionizing radiation sources, as prescribed by the Food and Drug Administration's (FDA) regulations, to treat fresh or frozen, uncooked whole poultry carcasses or parts known as "ready to cook poultry," which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry and mechanically separated poultry product, which is a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses. Ionizing radiation will be applied for the purpose of controlling and reducing foodborne pathogens, such as *Salmonella, Campylobacter,* and *Listeria moncytogenes,* that may be present in raw poultry, in order to reduce the potential for foodborne illness.

EFFECTIVE DATE: October 21, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Derr, Deputy Director for Scientific Support, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, Area Code (202) 205-0675.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this proposed rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected poultry products that are in addition to, or different than those imposed under the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, States that maintain poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an inspector relating to inspection services provided under the PPIA. The administrative procedures specified in 9 CFR Part 381, Subpart W, must be exhausted prior to any judicial challenge of the application of the provisions of this rule with respect to labeling decisions.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact upon a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Facilities wishing to irradiate poultry will incur costs associated with implementing an adequate quality control system. Any other costs should be attributable to the normal costs of starting production of a new product.

Paperwork

Before an establishment may irradiate poultry, the operator must apply to and obtain approval from FSIS for a Grant of Inspection. Facilities whose only poultry processing activities consist of irradiation of pre-packaged raw poultry will be required to submit and obtain approval of a quality control system in lieu of more detailed drawings and specifications required by applicants for inspection who handle exposed poultry products. Facilities which conduct both irradiation processing and other poultry processing will also submit, in addition to information required under 9 CFR 381.19, a description of their quality control system. FSIS will receive, evaluate, and either approve or disapprove requests for such quality control systems. The quality control system will be placed on file in the establishment and be available to any duly authorized representative of the Secretary. The information collection requirements contained in this rule have been approved by the Office of Management and Budget under control number 0583-0078.

Background

Over the last few years, the public has become more aware of the threat of foodborne illnesses caused by pathogens, disease-causing microorganisms. Pathogens of concern include *Listeria monocytogenes, Campylobacter jejuni,* and *Salmonella.* These bacteria cannot be detected by sight, smell or taste.

Salmonella, Campylobacter, and *Listeria monocytogenes* are present in raw poultry and their presence leads to public health costs, reductions in work productivity, and other intangible costs. Children, the elderly, and immuno-compromised individuals are particularly vulnerable.

Therefore, in an attempt to lower levels of contamination from *Listeria monocytogenes, Campylobacter, Salmonella,* and other disease-causing microorganisms, on May 6, 1992, FSIS proposed to amend the poultry products inspection regulations to permit the use of ionizing radiation sources, as prescribed by FDA regulation (21 CFR 179.26), to treat (1) Fresh or frozen, uncooked whole poultry carcasses or parts known as "ready to cook poultry" within the meaning of 9 CFR 381.1(b)(44), which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry and (2) mechanically separated poultry product, which is a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses and ground poultry. (57 FR 19460-19469) Additionally, the proposed rule included regulations regarding packaging, labeling, application for inspection, and a quality control system. The comment period for the proposed rule ended on July 6, 1992.

Analysis of Comments

The Agency received 1062 comments on the irradiation of poultry products regulation. Approximately half of the comments favored the proposal and half did not. The majority of the comments addressed the concept of poultry irradiation, and not the specifics of FSIS's proposed regulations. Both proponents and opponents of poultry irradiation engaged in form letter writing campaigns.

Commenters favoring the irradiation of poultry generally stated that irradiation is a safe process that has been sufficiently tested and should be permitted so that people choosing to buy irradiated poultry can. Physicians were the largest group of proponents for the irradiation of poultry followed by consumers and radiation technology representatives. A significant number of academic institutions and associations, representing those involved with radiation technology and poultry production, submitted comments recommending that the Agency adopt the irradiation regulations. Several international organizations and government agencies from other countries commented favorably. A significant number of comments were received from the U.S. Army supporting the safety and recommending the use of irradiated poultry.

Commenters not in favor of poultry irradiation generally stated that irradiation has not been adequately tested, may cause cancer, lead to environmental hazards, and endanger irradiation facility workers. Consumers were the majority of those opposing irradiation followed by consumer advocacy groups.

The following is an analysis of the comments. General issues regarding food safety and irradiation efficacy including toxicological, microbiological, and nutritional safety are covered first. Secondly, issues raised about environmental safety, purpose of irradiation, consumer education, and review of the cost and benefits analysis are discussed. Lastly, the specific comments regarding the scope of the regulation, worker safety, labeling, and the quality control system, are addressed.

Food Safety and Efficacy

Before addressing the comments related to safety of irradiated foods, the Agency wishes to restate its position on the safety of irradiated poultry. Sources of radiation are defined as food additives in section 201(s) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 321(s)). Therefore, the Food and Drug Administration (FDA) has the primary responsibility to establish the safety of uses of irradiation.

On May 2, 1990, FDA published a final rule (55 FR 18538–18544) establishing the safe use of sources of ionizing radiation for control of foodborne pathogens in fresh or frozen raw poultry. In the preamble to that rule, FDA summarized their evaluation of: (1) Toxicity studies on irradiated chicken; (2) reports on the efficacy of the process and on the microbiological safety of the product and (3) nutritional adequacy of the product. In addition to their review published in the May 2, 1990 rule, FDA addressed all the major issues related to toxicological and microbiological safety in their April 18, 1986, final rule, Irradiation in the Production, Processing, and Handling of Food (51 FR 13376–13399) and in their December 30, 1988, Denial of Requests for Hearing and Response to Objections to the 1986 final rule (53 FR 53176–53209). Although FSIS reviewed the major areas addressed in the FDA rules in its proposed rule, it was not intended to reopen the issue of safety or question the toxicological or microbiological safety of irradiation that was thoroughly established by the FDA rules.

Toxicological Safety

Many commenters opposed to poultry irradiation expressed concerns about the toxicological safety of irradiated poultry. However, none of the areas of concern raised were different from those already reviewed by FDA in the final rules discussed above.

Concerns from consumers and a few physicians were general in nature expressing fear of cancer or chromosome mutations from irradiated foods. Several commenters stated that there was insufficient testing or that long term health would be affected. Comments about the incompatibility of radioactivity and the human body and the dangers of free radicals were also raised.

The comments provided by organizations opposed to the rule were more pointed. They expressed concerns about the difficulty of determining the safety of irradiated foods and unresolved questions about the safety of unique radiolytic products. Some raised the issue of flawed studies that formed the basis of FDA's conclusion of safety and commented that they were unconvinced by FDA's assessment.

Most commenters that opposed the proposed rule offered no information to support their concerns, and the remainder offered only the arguments already addressed by FDA. When those arguments were refuted by FDA in their December 30, 1988, denial of requests for hearing, no further supporting evidence was forthcoming.

Commenters in favor of the proposed rule representing academia, the medical profession, other industries familiar with radiation processing, and the food industry expressed confidence in the toxicological safety of irradiated foods. Some alluded to the conclusions reached by the Joint Expert Committee on Food Irradiation (JECFI). In 1980, JECFI concluded that food irradiation to doses not exceeding 10 kilogray (kGy) is wholesome and safe for human consumption.[1]

Other commenters agreeing with the proposal mentioned the recent conclusion reached by the World Health Organization (WHO). In a May 1992, press release, WHO announced that, after a comprehensive review of published and unpublished data, the conclusion was reached that irradiation carried out under good manufacturing practices presents no toxicological hazard and introduces no special or microbiological problems.[2]

Many physicians stating their support for the rule also expressed confidence in the safety of the process based on years of experience with safe use of radiation. Commenters from other industries that irradiate products such as cosmetics and medical supplies expressed confidence in the proven safety of radiation processing.

Microbiological Safety and Efficacy

Commenters from all groups favoring the proposed rule affirmed the Agency's position that irradiation of poultry is safe and effective. They agreed that consumers need safer foods and that, while irradiation will not eliminate food safety problems in the poultry supply, it is one way of reducing the risk of foodborne disease. Most favorable comments were general in nature, but some universities made reference to specific research that has been done to support the efficacy of irradiation.

Comments received from the U.S. Army noted the possible benefits to the military of the proposed rule. They

[1] "Wholesomeness of Irradiated Food", Report of a Joint FAO/IAEA/WHO Expert Committee, Technical Report Series No. 659 World Health Organization, Geneva (1981). A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

[2] "Food Irradiation: Added Value Not Risk", WHO Press, Press Release WHO/35, May 27, 1992. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

stated that irradiation of poultry has the potential to ensure a safer, more wholesome source of poultry, to provide cost savings through waste reduction, and to provide Armed Forces personnel more opportunity to enjoy poultry products in the field, thereby enhancing morale.

Comments from three consumer organizations that oppose the proposed rule included concern about the microbiological safety of irradiated foods. Two commenters expressed concern that irradiation may kill bacteria, yeast and molds that compete with *Clostridium botulinum* at the minimum dose of 1.5 kGy.

FDA reviewed four studies on the effects of irradiation on *clostridium botulinum* in its May 2, 1990, final rule (55 FR 18541). FDA wrote that the studies they reviewed showed that, with chicken irradiated at 3 kGy (300 krad), natural surviving microflora grew faster than *clostridium botulinum*, that enough normal flora survived in poultry irradiated at 3 kGy so that spoilage occurred before toxin was detected, and that irradiation of chicken at a dose of 3 kGy or less will not result in any additional health hazard for *clostridium botulinum* Types A, B, or E.

One commenter stated that, at the present time, "there is no epidemiological evidence available that even remotely suggests exposing poultry to ionizing radiation might achieve a possible reduction in the incidence and frequency of consumers acquiring a foodborne infectious disease!"

It is true that currently no epidemiological evidence exists in the United States concerning the reduction of foodborne illness as a result of consumption of irradiated poultry. It will not be possible to gather the epidemiological information necessary to address these issues until this technology is in use and irradiated poultry is commercially available to consumers. FSIS would support plans to gather epidemiological data in this area. An appropriate group to perform long term epidemiological studies would be the Centers for Disease Control (CDC).

Two commenters listed similar concerns that irradiation may result in the development of radiation-resistant strains of salmonella and that irradiation may have a mutagenic effect on the bacteria and viruses that survive the radiation treatment because ionizing radiation can cause genetic mutations.

In FDA's April 18, 1986, final rule and in the December 30, 1988, denial of requests for hearing, FDA dealt with the issue of irradiation creating or producing potentially harmful radiation-resistant bacteria, new mutant bacteria, or viral mutants. Based upon reviewed reference material, FDA reported that the only real difference between mutants produced during the irradiation of food and mutants that occur naturally was in the rate of mutation occurrence. In its 1988 denial of requests for hearing, FDA referenced a 1982 report that stated that there would be no qualitative difference between the kind of mutation induced by ionizing radiation and that induced by any other pasteurization methods such as heat treatment or vacuum drying. FDA stated that the vast majority of mutations of bacteria would tend to be detrimental for the microorganisms, and there is no reason to expect that resulting mutants would be different or more virulent than those created in nature. Additionally, FDA does not believe that radiation-resistant bacteria or viruses, if produced, would be more resistant to other antibacterial agents.

One commenter stressed that cooking poultry is even more effective than 300,000 rads (3 kGy) of ionizing radiation in preventing the possibility of contaminated poultry causing human disease.

FSIS agrees that proper cooking of raw poultry will destroy foodborne pathogens; but disagrees that cooking, by itself, will prevent human foodborne illness. According to a 1990 CDC publication,[3] for each year during the five year period that was studied, 1983 through 1987, the least commonly reported factor contributing to foodborne disease was food obtained from an unsafe source. Factors commonly reported contributing to foodborne disease were food-preparation practices. Improper storage or holding temperature was the most common contributing factor followed by inadequate cooking, poor personal hygiene of the food handler, and contaminated equipment.

FSIS does not intend for irradiation of poultry to replace cooking, but rather to reduce the potential for cross-contamination. In fact, irradiation complements cooking. This concept is buttressed by a study performed by scientists at the Eastern Regional Research Center of the Agricultural Research Service, USDA, and published in 1991.[4] They studied the effects of heat and ionizing radiation on *S. typhimurium* in mechanically deboned chicken meat and concluded that "irradiated poultry will be much safer for the consumer than expected because the irradiation treatment will have made any surviving cells of *Salmonella* more sensitive to heat."

One commenter expressed uncertainty about the extent of reduction in foodborne pathogens in irradiated poultry, especially at the minimum dose of 1.5 kGy.

In the May 2, 1990, final rule permitting ionizing radiation of poultry (55 FR 18538 at 18541), FDA stated that a number of reports submitted point out that the radiation dose necessary to reduce the initial population of *Salmonella* by 90 percent ranges from "less than 0.5 kGy to approximately 1 kGy." Additionally, FDA reported that other microorganisms such as *Yersinia* and *Campylobacter* are even more radiation sensitive than *Salmonella*.

Another issue raised was that once the normal bacteria flora are eliminated by the radiation treatment, an important barrier will be removed allowing pathogens to grow if they are not killed by the radiation treatment or if they recontaminate the product after it is treated.

The problems of contamination of raw poultry and temperature abuse and the potential for foodborne illness are not unique or limited to irradiated poultry. If irradiated raw poultry were temperature abused, both pathogens and spoilage organisms would grow and the product would become organoleptically objectionable. The same would be true if non-irradiated raw poultry were temperature abused. To help prevent recontamination, FSIS specifies that poultry be packaged for point of purchase at the time of irradiation.

One commenter added that because irradiated chicken can be stored longer at low temperatures, cold-tolerant *Listeria monocytogenes* could grow to infective numbers before spoilage would be evident. Several studies examining the residual microbial flora on poultry parts and mechanically deboned chicken meat irradiated and then stored at temperatures ranging from 1° C to 5° C refute this concern. In 1986, Klinger reported that after irradiation food spoilage bacteria were isolated after 4

[3] Bean, N.H., P.M. Griffin, J.S. Goulding and C.B. Ivey. "Foodborne Disease Outbreaks, 5-Year Summary, 1983–1987." Journal of Food Protection. 1990. Vol:53(8). Pgs 711–728. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture, Washington, DC 20250.

[4] Thayer, D.W., S. Songpraertchai, and G. Boyd. "Effects of Heat and Ionizing Radiation on *Salmonella typhimurium* in Mechanically Deboned Chicken Meat." Journal of Food Protection. Vol:54(9). Pgs 718–724, 723. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture. Washington, DC 20250.

weeks in storage at 1–2° C.[5] In 1991, it was observed that the indigenous bacterial population, after irradiation at 1.25 kGy and 2.50 kGy, increased at 5° C during storage.[6]

Additionally, in 1988, Margaret Patterson of the Food and Agricultural Microbiology Research Division, Department of Agriculture for Northern Ireland, published the results of her work on the sensitivity of several bacterial species to irradiation on minced fresh deboned poultry under various atmospheres.[7] The D-values for the genus *Lactobacillus*, spoilage bacteria, are comparable to those reported by Patterson in 1989 for four different strains of *Listeria monocytogenes* irradiated in minced fresh deboned chicken meat.[8] Therefore, lactobacilli and *Listeria monocytogenes* should be present in the same proportion both before and after radiation pasteurization. The lactobacilli produce lactic acid and bacteriocin which are inhibitory to various *Listeria* species including *Listeria monocytogenes.*

Nutritional Considerations

As previously stated, in making its decision on the approval of irradiation for poultry, FDA reviewed data on the effect of irradiation on the nutritional value of food. Based on the review of nutritional studies reported by the Agricultural Research Service of USDA and other sources, FDA concluded that "irradiation at the doses used does not have a deleterious effect on the levels or bioavailability of the nutrients in chicken." (55 FR 18538 at 18542) Based on concerns expressed about the cumulative loss of nutrients, including losses from irradiation, cooking, and refrigerated storage, the FDA reviewed further studies addressing that concern and they further concluded that "irradiation of poultry at doses of up to 3 kilogray will not have an adverse impact on the nutritional value of a person's diet." (55 FR 18538 at 18542) These findings were also reported in FSIS's proposed rule. (57 FR 19460 at 19463)

Despite this thorough review of nutritional considerations, several commenters expressed views on this issue. Commenters for and against the proposed rule agreed with FDA and FSIS that there are nutritional changes associated with irradiation. However, commenters differed in their opinions on whether those changes were significant. One negative commenter called the evidence against irradiation "overwhelming" but failed to cite any evidence to refute the conclusions reached by FDA. Another commenter concluded that food irradiation will have a detrimental effect both on the nutritional value of our food supply and on the long term health of the public, but again provided no evidence to support that conclusion. Still another commented that irradiated food is not palatable.

Conversely, commenters in favor of the rule characterized the effect on nutrients as not significantly impaired or as having no impact on the nutritional quality of food. Two universities provided information based on their research that indicates that irradiation produces no off-flavors and insignificant changes in physical attributes like water-holding capacity, changes in proteins, amino acids, fats, and rancidity indices. Comments from the U.S. Army also supported the low impact of irradiation on the nutritional value and organoleptic aspects of foods. They concluded that the 3 kGy dose conserves the nutritional quality and does not produce a detectable off-flavor in irradiated poultry.

In conclusion, FSIS believes that the comments received on toxicological safety, microbiological safety and efficacy, or nutritional considerations provide no information that would require a change in the proposed rule or a decision not to go forward with the final rule.

Need for Irradiation of Poultry

The proposed rule included a section that addressed the reasons for the Agency's intended approval for poultry irradiation. (57 FR 19460 at 19461) Among the reasons stated were the wide distribution of bacterial pathogens in the environment, public health costs associated with foodborne illness, and the difficulty of eliminating foodborne pathogens by even the most stringent prevention practices. One commenter observed that the need has already been recognized in many other countries. Another reminded the Agency of the success of irradiation of mechanically deboned poultry in France.

Some commenters disagreed with the need for poultry irradiation. They believe that foodborne disease can be eliminated through normal handwashing and proper cooking and handling of poultry products. Conversely, a university researcher observed that, while cooking indeed destroys foodborne pathogens, the "serious safety aspect is that which arises from the potential for cross contamination, which is an area not well understood by the general public and even if understood would not necessarily be easily avoided."

Other commenters observed that a better job of cleaning the chicken or better procedures in the processing plant are adequate to handle the problem. One physician informed the Agency of a method of dipping poultry in a solution of trisodium phosphate (a safe food additive) as a means of killing most *Salmonella* and other disease-causing bacteria at a cost of less than one cent for a four pound bird.

FSIS is aware of that method and others for controlling foodborne pathogens and is involved in their testing. However, it is unrealistic to assume that any one method, including the proposed use of irradiation, will be successful in eliminating all foodborne illnesses.

A food trade organization stated that "all viable technologies should be made available, thus allowing free enterprise decisions to be made in supplying consumers with the most wholesome and safe products possible." Several other commenters echoed this comment.

Environmental Safety

While those favoring poultry irradiation believed the process to be safe, many commenters opposing irradiation raised questions regarding environmental hazards. Consumers and consumer advocacy groups commented that transportation of radioactive material could lead to accidental spills, that more radioactivity will be released into the environment, and that radioactive waste disposal problems will arise.

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[5] Klinger, I., V. Fuchs, D. Basker, B.J. Juven, M. Lapidot and E. Eisenberg. "Irradiation of Broiler Chicken Meat." Israel Journal of Veterinary Medicine. 1986. Vol:42(3). Pgs 181–192. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture. Washington, DC 20250.

[6] Szczawinska, M.E., D.W. Thayer, and J.G. Phillips. "Fate of Unirradiated *Salmonella* in Irradiated Mechanically Deboned Chicken Meat." International Journal of Food Microbiology. 1991. Vol:14. Pgs. 313–324. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture. Washington, DC 20250.

[7] Patterson, M. "Sensitivity of bacteria to irradiation on Poultry Meat Under Various Atmospheres.", Letters in Applied Microbiology, 1988. Vol:7. Pgs 55–58. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture. Washington, DC 20250.

[8] Patterson, M. "Sensitivity of *Listeria monocytogenes* to Irradiation on Poultry Meat and in Phosphate-buffered Saline." Letters in Applied Microbiology. 1989. Vol:8. Pgs. 161–164. A copy of this article is on display in the FSIS Hearing Clerk Office, room 3171, South Agriculture Building. Food Safety and Inspection Service. U.S. Department of Agriculture. Washington, DC 20250.

The movement of radioactive materials is not a new undertaking in the United States. There are over 50 facilities currently using radioactive materials to process cosmetics, hospital supplies and medical products, and many plastics used for packaging and consumer products. FDA addressed that issue in its 1986 final rule. (51 FR 13376 at 13395) They observed that both the Department of Transportation (DOT) and the Nuclear Regulatory Commission (NRC) have regulatory requirements that govern all aspects of transportation. Additionally, they summarized an NRC report which concluded that the total risk from all transportation of such materials was acceptably low and that the existing regulations are adequate to protect the public against unreasonable risks from the transport of radioactive materials. Food irradiation sources are shipped in lead-shielded steel casks. There has never been a release of radioactive materials from one of these casks in the United States as a result of a transportation accident and there is no reason to believe that shipment of food irradiation sources would make such a release more likely.

In regard to environmental hazards, irradiation facilities do not release radioactivity into the environment. The level of radiant energy used at irradiation facilities cannot produce neutrons, substances which can make materials radioactive. The walls of the irradiation cell through which the food passes, the machinery inside the cell, and the product being processed cannot become radioactive. Radioactive sources are sealed in double-walled capsules made from corrosion resistant alloys. They are stored in a deep water pool when not in use. The water in the pool is continuously deionized to further deter corrosion of the capsules. If corrosion were to occur in spite of these precautions, there are radiation sensors in the pool that would detect the presence of any radioactive material. Under those circumstances, the failed capsule could be safely removed from the pool, be placed in a transportation cask, and be returned to the supplier for proper repackaging or safe storage.

FDA also addressed the issue of radioactive wastes in the 1986 final rule. (51 FR 13376 at 13396) They stated that, under NRC regulations, sealed sources used in an irradiator may be disposed of by transfer to an authorized recipient—the original supplier, another licensee authorized to possess the source, or a facility licensed to receive and dispose of radioactive wastes. In practice, cobalt-60 sealed sources are usually returned to the supplier at the end of their useful life (15–20 years). FSIS believes that these methods are adequate to protect the environment.

Purpose of Technology

Some commenters stated that irradiation would be used as an alternative to good hygienic practice in processing plants or be used to clean up contaminated poultry. This is not the case nor is it feasible. All poultry prepared for irradiation will be processed and packaged in accordance with the Poultry Products Inspection Act and the poultry products inspection regulations. Therefore, all poultry entering into or in official establishments is inspected and passed for wholesomeness. Poultry could not be packaged at one official establishment and shipped to another for irradiation if the poultry was not wholesome.

Further, the rulemaking requires that the temperature and time requirements of 9 CFR 381.66 be maintained during shipping of poultry from one official establishment to the irradiation facility. The temperature and time requirements are effective in reducing the growth of most spoilage microorganisms.

Additionally, using irradiation to "clean up" a product—that is to reverse spoilage or make a bad product appear good—is not possible. If a product already exhibits signs of spoilage (i.e. bad appearance, odor, or taste), before irradiation, it cannot be restored to apparent good quality by any treatment, including irradiation. The bad appearance, smell, or taste will remain or be made worse by the irradiation process.

Another group of commenters expressed concern that irradiation of poultry has been conceived as a means of disposal for cesium-137 or other so-called waste products of the nuclear weapons or nuclear power industry. All industrial uses of cesium-137 have been terminated by the Department of Energy so the only radionuclide source available for irradiation of poultry is cobalt-60. Cobalt-60 is produced for the specific purpose of radiation processing rather than as a byproduct of other industries. Other sources that may be used for irradiation of poultry, machines that produce electrons or X-rays, use no radioactive source material and thus could not contribute to nuclear waste disposal.

There were no hidden agendas associated with the proposed rule. The purpose of irradiation is in no way intended to replace or relax current poultry processing regulations or to dispose of unwanted nuclear waste materials. The Agency's decision to amend its regulations to permit the irradiation of fresh or frozen raw poultry products is intended to provide industry with an additional means to control and reduce foodborne pathogens that may be present on raw poultry.

Consumer Education

A significant number of commenters favoring poultry irradiation believed that a lack of information regarding food irradiation led to opponents concerns and such product should be made available to consumers.

The Agency agrees that many consumers do not have a good understanding about irradiated foods. Many commenters stated that the process is too new and has not been tested; this, however, is not the case. The process and testing of irradiation has been in existence for over 30 years. Additionally, cosmetics, wine bottle corks, hospital supplies, medical products, and some types of food packaging have been irradiated for a number of years.

Some commenters opposing the proposed rule believed that irradiating food makes it radioactive. Radioactivity in foods can occur by two means; contamination of foods with radioactive substances, or induction of radioactivity by penetration of energy into the nuclei of the atoms that make up the food.

The irradiation process involves passing food through an irradiation field; however, the food itself never contacts a radioactive substance. The radioactive source material is contained within specially made capsules that are protected from corrosion or other damage that could result in the release of the sources. If a capsule should fail in spite of the precautions taken, there are sensors that would detect the radioactive materials and immediately halt the process before food could be contaminated.

FDA addressed the issue of induced radioactivity in irradiated foods in their denial of requests for hearing. (53 FR 53176) FDA found no merit in an objection, unsupported by data, that pork becomes radioactive for 24 hours after irradiation based on induced radioactivity in sodium present in the pork. Quoting their 1981 advance notice of proposed rulemaking (46 FR 18992), FDA stated that "the use of ionizing radiation of appropriate source energy [levels] does not induce any detectable radioactivity in foods when measured by methods that can easily detect the presence of radioisotopes that occur naturally in foods." (53 FR 53176 at 53201)

A significant number of commenters stated that irradiation is banned in all of

Europe, but this is not true. About 10,000 tons of food per year are irradiated in both Belgium and France. A wide variety of irradiated foods has been approved in the Netherlands, and plants there have been irradiating about 20,000 tons per year. Thirty seven countries throughout the world have approved applications of irradiation, and foods have an unconditional clearance in 28 countries. Spices and onions are irradiated commercially in Hungary, and spices are also processed in small quantities in France, Israel, Czechoslovakia, and other countries, including the United States.

A few commenters stated that they want the right to buy non-irradiated poultry. They will have it. The decision to irradiate poultry is voluntary. The Agency has never attempted to mandate poultry irradiation, but supports the availability of alternative processes that help provide consumers with safer foods. Labeling of irradiated poultry will provide the means for consumers to choose between non-irradiated and irradiated poultry as they wish.

FSIS recognizes that many of the misconceptions held by consumers are the result of the absence of factual information about the irradiation process. Several commenters suggested that the Agency engage in consumer education programs to address concerns regarding the process. The Agency agrees and is planning such an effort through publications, the Meat and Poultry Hotline, and cooperation with other agencies with similar missions and interests.

Cost and Benefit Analysis

The Agency, based on a 1991 Economic Research Service (ERS) study, estimated that the cost of irradiating poultry would range from 0.86 to 1.3 cents per pound. Additionally, the net public health benefits of irradiation was estimated to range from 35 to 50 million dollars.

Several comments, both in favor of and opposed to the proposed rule, addressed the cost and benefit analysis. Those in favor of the rule agreed with the analysis, but suggested the benefits may be higher.

Alternately, a consumer group opposed to irradiation disagreed with the analysis. In fact, that group believed the cost of irradiating poultry is much higher and that the cost will be passed on to consumers in such a way that the proposed rule should be considered as a "major rule" under Executive Order 12291.

The Agency agrees that the benefits may vary, but believes that the cost and benefits analysis is an accurate estimation. However, the Agency does not believe this could in any way change the status of the rule from a non-major rule. Most importantly, poultry irradiation is voluntary. The poultry industry will not be required to have their products irradiated nor will consumers be forced to purchase irradiated poultry. Therefore, the Agency does not believe the non-major rule status of the regulation should be changed nor does the Agency believe that its cost and benefits analysis should change.

Other General Topics

Two consumer groups suggested that the comment period be extended and hearings be held on the safety of irradiation. Additionally, a labor union suggested that an advisory committee be formed to oversee the implementation of the rule. Such a committee would include industry, labor, environmental and consumer representation.

In regard to the extension of the comment period, the Agency received no evidence that significant comments would be forthcoming. Therefore, the request was not granted. Additionally, there is no reason to believe a public hearing would provide the Agency with any more pertinent information.

The Agency does not believe an advisory committee should be formed. The Agency, in its proposed rule, established means for the implementation of poultry irradiation and received relatively few comments related to implementation. Therefore, the Agency does not believe that an advisory committee would provide any significant assistance.

Scope of Regulation

Several commenters suggested that the scope of the rulemaking be expanded to allow packages sized for food service, wholesale, and mass catering operations to be irradiated.

FSIS agrees that irradiated poultry should be made available to food service, wholesale, and mass catering operations. The rulemaking does not disallow any of these options.

One commenter suggested that the scope of the rulemaking be expanded to allow poultry products with added ingredients, including flavorings and uncured solutions such as basting mixtures, to be irradiated. The commenter further stated that fresh poultry can have added flavorings and uncured solutions and still be labelled as "fresh."

The Agency would favorably entertain allowing poultry with added flavorings and uncured solutions to be irradiated. FSIS will grant approval on a case-by-case basis consistent within the intent of FDA's approvals.

A commenter suggested that cooked poultry be irradiated. The Agency does not agree that cooked poultry should be irradiated. Cooked, uncured poultry is required to be fully cooked to 160 degrees Fahrenheit which is sufficient to destroy viable pathogenic organisms. Thus, since the purpose of irradiation for poultry is to control food-borne pathogens, there should be no need for the irradiation of cooked poultry. The Agency has not identified any problems other than mishandling that result in pathogen survival in fully cooked poultry.

A commenter was concerned that it may not be possible to irradiate frozen poultry between 1.5 kGy and 3.0 kGy. The commenter suggested that the upper limit for frozen poultry be raised to 4.5 kGy. The commenter did not expect there to be any problem with irradiating fresh poultry between 1.5 kGy and 3.0 kGy.

Other than the commenter's statement, the Agency does not have any documentation to support the contention that frozen poultry could not be irradiated as proposed. Since the poultry will be packaged, the product units can be arranged at the irradiation facility to receive the proper absorbed dose. The Agency does realize that the radiation source affects the configuration size of the product unit.

One commenter suggested that packaging films that provide an oxygen barrier should be allowed since the poultry industry currently uses such materials. FSIS has determined that there are insufficient data to establish the safety of using oxygen impermeable films to hold poultry during the irradiation process and therefore such films will not be acceptable. Further, FDA in its rulemaking (55 FR 18538 at 18542) allowing poultry to be irradiated specifically stated that oxygen impermeable packaging materials could not be used.

One commenter suggested that FSIS should take the lead in requiring FDA to evaluate the effects of irradiation on existing and new types of polymeric packaging materials, in accordance with 21 CFR 179.45.

FSIS does not agree with the commenter that FSIS should take the lead on this issue. FDA will consider the effects of irradiation on new packaging materials when petitioned. FSIS suggests that the poultry industry, the irradiation industry, and the packaging industry contact and petition, if necessary, FDA to determine whether

existing or new packaging materials are acceptable.

One commenter suggested that the rulemaking should be expanded to include monitoring for radiation injured cells within the poultry product.

FSIS does not agree with the commenter that such monitoring is necessary. FSIS accepts the determination made by FDA that poultry products irradiated up to 3 kGy are safe.

One commenter suggested that the rulemaking be modified to require poultry suppliers to the irradiation facilities to have a Hazard Analysis Critical Control Program (HACCP) to assure that unwholesome poultry is not irradiated. The commenter further stated that irradiation would otherwise be used to cover-up spoilage and unwholesome conditions on the poultry.

Poultry products entering into any official establishment, including an irradiation facility, must be inspected and passed (9 CFR 381.145). Unwholesome product would not be acceptable for shipment from one official establishment to another, or for receipt for processing from another official establishment.

Further, it is expected that poultry shipped from an official establishment to an irradiation facility for radiation treatment will be produced under a quality control program for labeling and other quality controls related to the irradiation quality control procedure.

The Agency does not mandate HACCP. The Agency would favorably support the voluntary development of a HACCP program for the poultry supplier, as well as the irradiation facility, to assure that the official establishments are specifically monitoring the wholesomeness of the poultry for irradiation. If the poultry supplier is processing poultry to specifically meet requirements identified by the irradiation facility—for example, prior labeling of packaged poultry, weight of individual packaged product or specific types of product—a quality control program may be required for the supplier. The supplier's quality control program could also address wholesomeness specifications. FSIS would have to approve all quality control programs.

One commenter expressed concern with the importation of irradiated poultry. The commenter stated that there would be additional health risks resulting from imported, irradiated poultry since foreign facilities are typically poorly regulated. In addition, the commenter stated that inspection of foreign facilities by United States inspectors would be ineffective since foreign facilities typically have advanced notice of the U.S. inspections.

The Agency does not agree that there would be additional health risks associated with imported irradiated poultry. Foreign countries exporting irradiated poultry to the United States must have an inspection system equivalent to the U.S. poultry inspection system and have a quality control system for irradiation facilities prior-approved by FSIS. Knowing when U.S. inspections are to occur is not significant.

A commenter expressed concern that, since no analytical method yet exists to determine if poultry has been irradiated, foreign irradiated poultry would enter into the United States without identification.

All irradiated poultry, including imported irradiated poultry, is to be prominently labeled and bear the logo as specified in 9 CFR 381.135. In addition, in accordance with 9 CFR 381.197, poultry entering into the United States must be accompanied by an export certificate from the exporting country, identifying where and how the poultry was processed.

Worker Safety

Several commenters expressed concern that the rulemaking does not adequately address worker safety in the irradiation facilities. The commenters cited past worker safety violations of the NRC and Occupational Safety and Health Administration (OSHA) regulations by irradiation facilities, as well as minimal monitoring of the irradiation facilities by the regulatory agencies since the facilities are small compared to larger nuclear facilities.

FSIS does not agree that the rulemaking inadequately addresses worker safety, including FSIS employees safety. FSIS has clarified 9 CFR 381.149(c)(1)(ii), to more specifically state that the quality control system must demonstrate that a worker safety program addressing OSHA regulations is in place. Further, 9 CFR 381.149(c)(2)(ii) requires the irradiation facility to assure that the facility personnel have been trained in radiation health and safety. In addition, OSHA has specific regulations regarding worker exposure limits and tolerances for ionizing radiation. Pursuant to OSHA regulations, facility personnel are required to wear personnel dosimetry devices that records the cumulative amount of ionizing radiation that a facility employee is exposed to while in the facility.

FSIS employees also will receive training from FSIS in radiation health and safety and be required to wear dosimetry devices. The Agricultural Research Service, (ARS), USDA administers a Radiological Safety program for all employees of USDA agencies. The personnel dosimetry devices will be issued through ARS to FSIS. Radiation exposure records for FSIS employees will be maintained and monitored by ARS. The records will be kept indefinitely.

The Agency does not currently have a mutual agreement with NRC or OSHA to be made aware of safety violations by the irradiation facilities. However, the Agency does recognize the benefits of knowing whether safety violations have occurred at the irradiation facility and will pursue establishment of such agreements.

The monitoring of irradiation facilities by other Federal or state agencies is not determined by FSIS. FSIS will assure that the irradiation facilities are properly implementing their quality control systems. In addition, FSIS will pursue closer working relationships with other agencies, including NRC and OSHA.

Several commenters expressed concern about worker safety related to radioactive "spills" at the irradiation facilities.

The Agency will rely upon the safety regulations administered by NRC, OSHA, FDA, and the Environmental Protection Agency in cases of radioactive contamination,as well as the guidance provided by ARS/USDA.

One commenter further expressed concern with the lack of environmental safeguards in the FSIS rulemaking specifically related to poultry workers and the surrounding communities. The commenter stated that the poultry industry had a bad safety record.

The Agency will rely upon the safety regulations administered by NRC, OSHA, FDA, and particularly the Environmental Protection Agency in cases of environmental contamination.

One commenter suggested that the rulemaking be modified to require the safety and health plans of the irradiation facilities to be made available for public review and comment in the **Federal Register**.

The Agency does not agree with the commenter that the FSIS rulemaking should require such modification. The commenter could petition other regulatory agencies specifically responsible for worker safety and health to include such requirements in appropriate regulations.

Labeling

Several commenters, particularly consumer interest groups, stated that

labeling requirements need to be more extensive to cover processed poultry products containing irradiated poultry ingredients—second generation products.

FSIS's proposed regulations did not provide for labeling provisions for poultry products containing irradiated poultry ingredients, and the Agency agrees that such provisions are needed. Therefore, the Agency is undertaking policy initiatives to establish labeling provisions of poultry products containing irradiated poultry ingredients.

A comment from a consumer interest group stated that irradiated poultry should be fully labeled in supermarkets and restaurants.

The FSIS rulemaking would require all irradiated poultry be fully labeled when it leaves a Federal establishment. Product sold at retail, including supermarkets, would be fully labeled, and could not be removed from its labeled container, and repackaged. Product must be sold intact, as received from a Federally inspected establishment.

FSIS does not impose labeling requirements for irradiated foods prepared in restaurants, including poultry. Additionally, FDA, in 21 CFR 179.26(c)(2), does not require foods containing an irradiated ingredient to be labeled when prepared in restaurants.

A commenter suggested that labeling be more expansive to facilitate a quick recall if a problem was found with a particular lot of irradiated poultry.

FSIS agrees that provisions for a product recall are necessary and identified this need in the rulemaking, 9 CFR 381.149(c)(3)(x). The rulemaking requires irradiated product within each production lot to be identified to permit product recall.

A commenter suggested that the label for irradiated poultry be modified to require a warning statement, stating that the radiation treatment does not assure that harmful microorganisms have been eliminated and that consumers must properly handle the poultry.

FSIS does not agree that such a statement is necessary or appropriate. The Agency has prepared educational materials for the safe handling of poultry, irradiated or not, and will continue to provide information on proper handling of raw poultry. Furthermore, the product label must bear a handling statement, "Keep Refrigerated" or "Keep Frozen." Either statement is intended to provide the purveyors and consumers with information about safe handling procedures.

A commenter suggested that irradiated poultry not be considered as "fresh" product, as referred to in 9 CFR 381.147(f)(4), since the poultry is further processed. The commenter felt that the consumer would interpret the term "fresh" as meaning "as harvested" or "not processed."

FSIS does not agree that the term "fresh" would be misleading to the consumer. The Agency has had a long-standing policy of allowing the term "fresh" on poultry which has not been cured, canned or chemically preserved, or frozen to zero degrees Fahrenheit, all of which are processes that alter the appearance of the product. Irradiated poultry does not have an altered appearance. Irradiated poultry is a raw product requiring the same special handling as all fresh poultry. If poultry is frozen after the irradiation process, it cannot be labeled "fresh".

Two commenters suggested that optional labeling statements regarding the purpose of irradiation should not be allowed. One commenter felt that such statements would be perceived as a health claim. The second commenter stated that such a statement would be a license for purveyors and purchasers to abuse the product's holding temperature and time.

FSIS does not agree that the optional labeling statement should be removed. The statement is intended to provide additional information to the consumer regarding the purpose of the irradiation process. 9 CFR 381.135(c) specifies that the statement must not be false or misleading.

The optional statement is not a health claim, as one commenter suggested. The Agency recognizes that pathogenic organisms may be present on poultry. However, because of the irradiation process, the level of organisms, including those that are pathogenic, would be reduced and the potential for foodborne illness would also be reduced.

Regarding the potential for increased handling abuse, the Agency agrees that this is a possibility. However, through educational efforts, the Agency expects that purveyors and purchasers would not mishandle irradiated poultry. The rulemaking does provide that proper temperature and time requirements be maintained through storage and shipping to the point of purchase (9 CFR 381.(c)(6)). In addition, the rulemaking requires a "Keep Refrigerated" handling statement on the packaged product. The Agency does not control handling practices beyond the Federal irradiation facility. Handling statements are intended to provide guidance beyond the FSIS inspected facilities.

A commenter suggested that the logo should not be included as part of the labeling of irradiated poultry.

The Agency disagrees with the commenter. The Agency believes that irradiated poultry should be adequately and prominently labeled. The logo provides an additional identification of the irradiation process and is also consistent with FDA requirements. (21 CFR 179)

Several commenters suggested that the optional labeling statement "Irradiated to control food-borne pathogens" is vague and should be modified as follows: "Irradiated to control *Salmonella;* (B) "Irradiated to control foodborne vegetative pathogenic bacteria;" (C) "Irradiated to reduce bacterial spoilage;" (D) "Pasteurized by irradiation to control bacteria and to extend shelf-life;" (E) "Pasteurized by irradiation to reduce bacteria and to improve shelf-life;" or (F) "Contains no radioactive additions."

The Agency does not require the optional labeling statement referred to by the commenters—"Irradiated to control food-borne pathogens." However, the statement is truthful and accurate and would be acceptable on irradiated poultry, as provided in 9 CFR 381.135(c). Such optional labeling statements must not be false or misleading. The Agency would evaluate each of the above mentioned proposed optional statements on a case-by-case basis, as well as the supporting documentation, to detemine if the statements are false or misleading. Truthful informational statements are supported by the Agency.

Quality Control System

Licensing

One commenter asked for clarification of the licensing requirements of 9 CFR 381.149(c)(1) (i) and (ii). Specifically, the commenter asked if section (i) was specific for facilities with a gamma radiation source and if section (ii) was specific for facilities with a machine radiation source.

The intent of both sections is basically as the commenter stated. Section (i) is specific for registering the gamma radiation source with the Nuclear Regulatory Commission (NRC). However, section (ii) is for registering the machine radiation source with the Occupational Safety and Health Administration (OSHA), as well as providing evidence that an OSHA worker safety program for both types of radiation source facilities is in place. Worker safety regulations administered by OSHA are addressed, in part, in 29

CFR 1910.96. FSIS has amended the rulemaking to clarify the intent of 9 CFR 381.149(c)(1) (i) and (ii).

Training

A commenter felt that the rulemaking only scantily addressed worker occupational health and safety training. The commenter provided several recommendations: FSIS employees should be trained, not just irradiation facility personnel; records of worker exposure levels to radiation should be kept for extended periods of time; and food irradiation facilities should be required to establish comprehensive health and safety plans as comprehensive as the larger commercial (non-food) facilities.

The Agency fully agrees with the commenter's suggestions. However, the rulemaking adequately addresses them. FSIS employees will be provided training on radiation health and safety. Records of FSIS employees' levels of exposure to radiation will be maintained indefinitely by the Agricultural Research Service's Radiological Safety Staff; OSHA is responsible for establishing and monitoring the radiation exposure level of irradiation facility personnel, including FSIS personnel. OSHA has established record maintenance requirements to which the plant must adhere. Commercial irradiation facilities could apply for a grant of inspection to irradiate poultry and would be required to establish health and safety programs acceptable to OSHA.

A commenter suggested that the training specified in 9 CFR 381.149(c)(2)(i) should be modified to say "* * * under supervision of a person who has proficiency on the safe handling of food products." The commenter was concerned that the course of instruction described in the preamble, the Food Irradiation Process Control School (FIPCOS), was applicable to international processing.

The Agency does not agree that the rulemaking should be modified as specified by the commenter. The FIPCOS course, or any other course of similar content, provides a well-rounded curriculum regarding safe handling of perishable products, as well as quality control related to dosimetry and safe handling procedures.

One commenter suggested that since only packaged poultry would be irradiated, workers (including "fork lift" operators) should not be required to be trained in "food technology." (9 CFR 381.149(c)(2)(ii) The commenter felt that food technology was too complex a field of study.

The Agency does not agree that food technology should not be a required area of training. Packaging does not assure that the product will be safe. Temperature and time for handling and storage are extremely important for preventing serious safety hazards in packaged irradiated poultry. However, the Agency does agree that the wording could be clarified to state that the key facility quality control personnel are required to be trained. This clarification will assure that the personnel responsible for the operation of the quality control system are informed of the safety hazards associated with poultry. In addition, this modification will clarify that "fork lift" operators are not required to be trained. The rule has been modified to reflect this.

Dosimetry

Two commenters clarified that the reference to the American Society of Testing and Materials (ASTM) 6-month calibration of the dosimetry system was erroneous. The suggested calibration frequency should be at least once each 12 months.

FSIS agrees that the frequency reference was erroneous. In addition, FSIS agrees that the dosimetry system calibration frequency should be at least once each 12 months, as recommended by ASTM. FSIS has amended the rulemaking to correct the intended calibration frequency to be at least once each 12 months.

A commenter suggested that 9 CFR 381.149(c)(4)(vi) be modified to delete the reference to the dosimeter positioning on at least the first, middle, and last product unit. The commenter felt that the first, middle, and last product units in some batch and continuous irradiators could not be easily determined. In addition, the commenter suggested that the wording be modified to state that "a sufficient number of dosimeters must be placed as specified by the procedures and approved by FSIS."

FSIS does not agree with the commenter that the first, middle, and last product unit cannot be identified in batch and continuous operations. A production lot, as defined in the rulemaking, must first be designated by the irradiation processor. Within the production lot, the first, middle, and last product units should be easily identified or estimated. For clarification, 9 CFR 381.149(c)(4)(vi) does not require the first, middle, and last product units within the irradiator cell at any given time to be identified.

Regarding the suggested modification by the commenter, the rulemaking clearly states the minimum requirements for dosimetry, whereas the suggested modification is too ambiguous. Further, the rulemaking mirrors the guidance of the ASTM standards.

One commenter, an irradiation processor, suggested that the rulemaking be modified to require at least one dosimeter in the irradiation cell at all times during a production lot. The commenter stated that this provision could provide added documentation of the estimated absorbed dose received by product units during a processing interruption.

The Agency agrees that additional dosimeters could be valuable for documenting the estimated absorbed dose received by a product, particularly during an unexpected interruption in processing. Although this would be a positive, objective method for documenting the absorbed dose in product in the cell, the Agency has determined that such a mandatory requirement is not necessary. The irradiation facility will have in place methods for documenting the actual absorbed dose of product, including the amount of time the product is exposed to the radiation source. However, a quality control system could have the "one dosimeter in the cell at all times" control.

Several commenters suggested that the reference to "only one product type," 9 CFR 381.149(c)(3)(iv) was vague. The commenters felt that there was no reason to not allow two dissimilar products (e.g., thighs and wings) to be irradiated at the same time.

FSIS agrees that it would be acceptable to irradiate dissimilar product at the same time, provided the product(s) is uniform throughout the production lot and the dose mapping (9 CFR 381.149(c)(4)(iv)) has been conducted on the product(s) within the production lot. Although unclear, this was the intention of the rulemaking. FSIS has amended the rulemaking to clarify 9 CFR 381.149(c)(3)(iv).

One commenter suggested that the definition of dose mapping, 9 CFR 381.149(a)(3), be modified to add that dose mapping could "be used to determine the proper irradiation time."

The Agency agrees that through dose mapping the irradiation time could also be established. However, the Agency does not agree that the suggested definition change enhances the definition of dose mapping. Further, the definition contained in the rulemaking is based upon the definition contained in the ASTM standards.

General Quality Control Issues

A commenter suggested that the term "production" be removed from 9 CFR 381.149(c)(3)(i) since additional

paperwork, (i.e., a certificate documenting the acceptability of the packaging material) would be required for each production lot irradiated, rather than each "lot."

FSIS does not agree that additional certificates would be required just because each production lot must be identified. However, the Agency agrees that the wording could be more clear, by stating that certification, in the form of a statement of fact which is traceable to a certificate, be made. The rulemaking would require the irradiator to have in place provisions to assure that all product irradiated is packaged in proper material regardless of how many production lots are created from any given lot. The documented tracing of all product from a larger lot to a smaller production lot, using only one certificate, would be acceptable and would not require additional paperwork.

One commenter suggested that there would not likely be any problem with commingling irradiated and non-irradiated poultry, as long as there is no cross-contamination. The commenter felt the rulemaking (9 CFR 381.149(c)(3)(ix)) could be interpreted to cause there to be separate storage and shipping containers for irradiated and non-irradiated poultry. The commenter implied that if complete separation was required, this would be an unnecessary burden.

Since packaged product is involved, cross-contamination is not the driving force behind the prevention of commingling non-irradiated and irradiated poultry. Poultry will likely be labeled "irradiated" at the poultry supplier and then shipped to the irradiation facility. Therefore, the "irradiated" product must be tightly controlled to assure that it is actually irradiated. However, the poultry supplier and the irradiation facility can use any number of acceptable practices to assure that the non-irradiated product is properly processed, including, but not limited to, separate storage facilities or use of special indicator labels which turn a different color when exposed to radiation. The Agency believes that, although it is necessary to establish methods to prevent commingling of irradiated and non-irradiated poultry, establishments have flexibility as how this can be achieved. Therefore, FSIS does not believe an undue burden is being placed on establishments.

A commenter suggested that food irradiation, and particularly the irradiation of poultry, is over-regulated. The commenter felt that these extensive regulations discourage judgement, creativity, and implementation of new technology. The commenter did not provide examples of excessive regulation.

The Agency does not agree that poultry irradiation is over-regulated. The rulemaking addresses the minimal safety, labeling, and processing controls that would assure that the poultry is properly irradiated.

Several commenters stated that there needed to be better monitoring of food irradiation facilities and processes. Specifically, the commenters expressed the following: Neither FDA nor USDA has reliable information on what food products are irradiated or who is irradiating food; neither the FDA nor the USDA has programs to inspect food irradiation facilities; there needs to be special attention to measures that prevent re-irradiation; there needs to be strict compliance monitoring for processing, transporting, and disposing of radioactive materials; there is no way after-the-fact to determine if poultry is properly irradiated; and there are no provisions for monitoring radiosensitive essential and non-essential nutrients, particularly Vitamin E.

Both FDA and USDA issue regulations that specify which foods can be irradiated (21 CFR part 179 for FDA; 9 CFR parts 318 and 381 for FSIS/USDA; 7 CFR for APHIS/USDA). FDA and APHIS should be contacted for information related to what products under their jurisdiction are irradiated. However, FSIS would know precisely which products are irradiated because labels and quality control programs must be prior-approved.

Both FDA and USDA require irradiation facilities to have prior-approved programs for irradiation processing. Both Departments have inspection programs for monitoring irradiation facilities to ensure the proper and safe irradiation of products.

FSIS specifically does not allow poultry to be re-irradiated. Irradiation facilities must have procedures for assuring that this does not occur. Further, if irradiated poultry were to leave an official establishment and re-enter another official establishment for processing and possible re-irradiation, the label would indicate that the product has already been irradiated. If the label and packaging is removed, the poultry would be refused entry into the official establishment.

FSIS is not the Agency responsible for monitoring the transport and handling of radioactive materials. Other agencies, such as DOT and EPA are more directly involved.

The Agency will rely on the documentation records to assure that poultry has been properly irradiated. If there is sufficient reason to believe that the poultry has been improperly irradiated, the irradiation quality control system requires that a recall procedure be provided.

The Agency has determined that there are no significant nutrient losses in irradiated poultry. Poultry is not a significant source of Vitamin E.

In addition to the changes addressed above, there are a few non-substantive corrections to the rule because of some printing errors made by the **Federal Register** at the time of publication.

Final Rule

The following regulatory changes will be made for poultry product irradiation procedures in part 381 of the Federal poultry products inspection regulations:

List of Subjects in 9 CFR Part 381

Poultry and poultry products, Irradiation.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.19 is amended by adding a new paragraph (g) to read as follows:

§ 381.19 Application for inspection; required facilities.

* * * * *

(g) *Irradiation facilities.* Applicants for inspection whose processing is limited to irradiation of packaged poultry product while in the custody of the establishment need not submit information required by this section, provided the applicant has submitted to the Administrator a proposed quality control system as specified in § 381.149 of this part. All applicants for inspection whose operations include irradiation and other processing would submit, to the Administrator, a proposed quality control system as specified in § 381.149 of this part, in addition to information required in this section.

3. The "Reserved" designation of § 381.135 is removed and the following text is added:

§ 381.135 Irradiated poultry product.

(a) The labeling of packages of poultry product irradiated in conformance with § 381.147(f)(4) of this part must bear the following logo along with a statement such as, "Treated with radiation" or "Treated by irradiation," in addition to all other labeling requirements of this subpart. The logo must be placed prominently and conspicuously in

conjunction with the required statement and be colored green. The statement must appear as a qualifier contiguous to the product name and in letters of the same style, color, and type as the product name. Letters used for the qualifying statement shall be no less than one-third the size of the largest letter in the product name. Any labeling bearing the logo and any wording of explanation with respect to this logo must be approved as required by subparts M and N of this part.

(b) The product label must bear the handling statement "Keep Refrigerated" or "Keep Frozen," as appropriate, in conformance with § 381.125 of this Subpart.

(c) Optional labeling statements about the purpose for radiation processing may be included on the product label in addition to the above stated requirements. Such statements must not be false or misleading.

4. Section 381.147(f)(4) is amended by adding a new class of substance "Radiation Sources," in alphabetical order, to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substances	Substance	Purpose	Products	Amount
*	*	*	*	*
Radiation Sources...	Ionizing radiation sources as approved in 21 CFR 179.26(a)	For control of food-borne pathogens	Fresh or frozen, uncooked, packaged poultry products that are: (1) Whole carcasses or disjointed portions of such carcasses that are "ready-to-cook," which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry, (2) mechanically separated poultry—a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses	Minimum absorbed dose of 1.5 kiloGray (150 kilorads) to a maximum absorbed dose of 3.0 kiloGray (300 kilorads).
*	*	*	*	*

5. The heading of paragraph (e) and paragraphs (e)(1) and (e)(3) of § 381.145 are revised to read as follows:

§ 381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(e) Evaluation and Approval of Quality Control Programs or Systems. (1) The Administrator shall evaluate the material presented in accordance with the provisions of paragraph (c) or (d) of this section or § 381.149 of this subpart. If it is determined by the Administrator, on the basis of the evaluation, that the total quality control system, partial quality control program, or quality control system for irradiation facilities will result in finished products controlled in this manner being in full compliance with the requirements of the Act and regulation thereunder, the total quality control system, partial quality control program, or quality control system for irradiation facilities will be approved and plans will be made for implementation under departmental supervision.

* * * * *

(3) The establishment owner or operator shall be responsible for the effective operation of the approved total plant quality control system, partial quality control program, or quality control system for irradiation facilities to assure compliance with the requirements of the Act and regulations thereunder. With the exception of a quality control system for irradiation facilities, as specified in § 381.149 of this Subpart, the Secretary shall continue to provide the Federal inspection necessary to carry out the responsibilities of the Act.

6. The heading of paragraph (g) and paragraph (g)(2) are revised, and a new paragraph (g)(4) is added to § 381.145 to read as follows:

§ 381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(g) Termination of Quality Control Programs or Systems. * * *

(2) The approval of a total plant quality control system, partial quality control program, or a quality control system for irradiation facilities may be terminated upon the establishment's receipt of a written notice from the Administrator under the following conditions:

* * * * *

(4) If approval of a quality control system for irradiation facilities, as specified in section 381.149 of this Subpart, has been terminated in accordance with the provisions of this section, a request for approval of the same or a modified quality control system will be evaluated by the Administrator upon receipt.

* * * * *

7. The "Reserved" designation of § 381.149 is removed and the following text is added:

§ 381.149 Irradiation of poultry product to control foodborne pathogens.

(a) Definitions of food irradiation terms:

(1) *Absorbed dose* is the amount of energy imparted by ionizing radiation to a quantity of product.

(2) *Bulk density* is the mass (weight) of a product unit divided by its total volume.

(3) *Dose mapping* is the identification of the regions of minimum and maximum absorbed dose in a product unit.

(4) A *dosimeter* is the device for measuring absorbed dose.

(5) *Dosimetry* is the process of measuring absorbed dose.

(6) *Ionizing radiation* is radiation with sufficient energy to cause the removal of electrons from atoms or molecules, thereby creating ions.

(7) *Irradiate* means to expose a material to ionizing radiation.

(8) A *product unit* is the volume of product, made up of one or more packages of product, which is collectively transported past the radiation source (e.g., in boxes or totes or on pallets or carriers).

(9) A *production lot* is the quantity of like product units designated as such by the operator of the irradiation facility or their agent to be processed in no more than one continuous shift of up to 8 hours.

(10) *Radiation source* is the radioactive material (e.g., cobalt-60) or machine that emits ionizing radiation.

(11) *Source activity decay* is the decrease in the radioactivity of radionuclide source material (e.g., cobalt-60) with the passing of time.

(12) *Traceability* is the capacity, through documentation, to relate an end-point measurement to recognized standards.

(b) Poultry product may be treated to reduce foodborne pathogens by the use of ionizing radiation as identified in § 381.147(f)(4) of this subpart. Only irradiation facilities operating under a FSIS-approved quality control system, in accordance with paragraph (c) of this section, may irradiate poultry product for food uses.

(c) A description of the quality control system must be sent to the Administrator identifying the responsible official for quality control and stating that all data and information generated by the system will be maintained to enable the Department to monitor compliance. The quality control system will be evaluated and approved in accordance with § 381.145(e) of this Subpart. A copy of the description will be placed on file in the irradiation facility and be available to any duly authorized representative of the Secretary. At a minimum, the operator of the irradiation facility must establish and comply with a quality control system which provides for the following:

(1) Licensing, Sanitation, and Facility. (i) Documentation showing that the irradiation facility is licensed and/or possesses gamma radiation sources registered with the Nuclear Regulatory Commission (NRC) or the appropriate State government acting under authority granted by the NRC, and that a worker safety program addressing regulations of the Occupational Safety and Health Administration (OSHA) is in place.

(ii) Documentation showing that the machine radiation source irradiation facility is registered with the Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA, and that a worker safety program addressing OSHA regulations is in place.

(iii) Procedures to ensure that the irradiation facility complies with the applicable provisions of Subpart H of this Part, as determined by the Administrator.

(iv) Procedures to ensure that, if the facility has no refrigerated storage capacity, adequate numbers of refrigerated units (such as trucks or carriers) will be made available during the radiation processing of poultry.

(2) Training. (i) A statement by the operator certifying that the irradiation facility personnel would operate under supervision of a person who has successfully completed a course of instruction for operators of food irradiation facilities.

(ii) A statement by the operator certifying that the key facility quality control personnel have been trained in quality control, food technology, irradiation processing, and radiation health and safety.

(3) Poultry Product; Packaging, handling. (i) Procedures to ensure that each production lot of packaged poultry is accompanied by a certificate or traceable certification that states that the food-contact packaging material is guaranteed by the supplier as complying with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and regulations in 21 CFR 179.45 for food irradiation processing and that the food-contact packaging material is air-permeable, but does exclude moisture and microorganisms from penetrating the package barrier.

(ii) Procedures to ensure that product units throughout each production lot are uniform in size, weight, thickness, and orientation to the radiation source.

(iii) Procedures to ensure that packages are distributed throughout each production lot uniformly with respect to package stacking arrangements, bulk density, and orientation of the packages to the radiation source.

(iv) Procedures to ensure that the product(s) is uniform throughout the production lot (e.g., all wings, all breasts, all combination packages of breasts and wings).

(v) Procedures to ensure that product temperature is kept uniform within a production lot, such that fresh refrigerated product is processed separately from frozen product.

(vi) Procedures to ensure that product unit bulk density is uniform throughout a production lot.

(vii) Procedures to ensure that product is kept intact and in sealed packages.

(viii) Procedures to ensure that product is not reirradiated.

(ix) Procedures to ensure that non-irradiated product is not commingled with irradiated product.

(x) Procedures to ensure that irradiated product within each production lot is identified to permit product recall.

(xi) Procedures to dispose of poultry with damaged packaging or poultry which has been improperly irradiated.

(4) Dosimetry.

(i) Laboratory operation procedures for determining the absorbed dose value from the dosimeter.

(ii) Calibration criteria for verifying the accuracy and consistency of any means of measurement (e.g., time clocks and weight scales).

(iii) Calibration and accountability criteria for verifying the traceability and accuracy of dosimeters for the intended purpose, and the verification of calibration at least every 12 months.

(iv) Procedures for assuring the product unit is dose mapped to identify the regions of minimum and maximum absorbed dose and such regions are consistent from one product unit to another of like product.

(v) Procedures for accounting for the total absorbed dose received by the product unit (e.g., partial applications of the absorbed dose within one production lot).

(vi) Procedures for verifying routine dosimetry (i.e., assuring each production lot receives the total absorbed dose). Each production lot must have at least one dosimeter positioned at the regions of minimum and maximum absorbed dose (or at one region verified to represent such) on at least the first, middle, and last product unit.

(vii) Procedures for verifying the relationship of absorbed dose as measured by the dosimeter to time exposure of the product unit to the radiation source.

(viii) Procedures for verifying the integrity of the radiation source and processing procedure. Aside from expected and verified radiation source activity decay for radionuclide sources, the radiation source or processing procedure must not be altered, modified, replenished, or adjusted without repeating dose mapping of product units to redefine the regions of minimum and maximum absorbed dose.

(5) Labeling. Procedures for verifying that the product is accurately and appropriately labeled in accordance with § 381.135.

(6) Transportation, Storage, and Handling. Procedures for assuring that temperature and time requirements of subpart I, § 381.66 are maintained during shipping of the poultry product to the irradiation facility, radiation processing, storage, and shipping of poultry product to the point of purchase.

(7) Corrective Action. (i) Procedures for corrective action for failure to adhere to any of the above procedures.

(ii) Procedures to dispose of product affected during the failure to adhere to any of the above procedures.

(iii) Procedures to prevent reoccurrence of any failures to adhere to any of the above procedures.

(d) The quality control system shall be subject to periodic review, and the approval of such system may be terminated in accordance with § 381.145(g) of this subpart.

8. Section 381.175 is amended by adding a new paragraph (b)(4) to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(4) Records of irradiation as required by sections 381.149 of this Part.

* * * * *

Done at Washington, DC, on: September 14, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92-22728 Filed 9-18-92; 8:45 am]

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federal register

Monday
September 21, 1992

Part XI

The President

Notice of September 18—Intention To Enter Into a North American Free Trade Agreement With Canada and Mexico

Federal Register
Vol. 57, No. 183
Monday, September 21, 1992

Presidential Documents

Title 3—

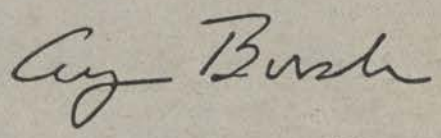
The President

Notice of September 18, 1992

Intention To Enter Into a North American Free Trade Agreement With Canada and Mexico

On September 18, 1992, under section 1103(a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988, I notified the House of Representatives and the Senate of my intention to enter into a North American Free Trade Agreement with the Government of Canada and the Government of Mexico.

Pursuant to section 1103(a)(1)(A) of that Act, this notice shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 18, 1992.

[FR Doc. 92-23103
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Reader Aids

Federal Register

Vol. 57, No. 183

Monday, September 21, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	512-1557

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39597-40070.....1
40071-40300.....2
40301-40590.....3
40591-40826.....4
40827-41052.....8
41053-41374.....9
41375-41640.....10
41641-41852.....11
41853-42484.....14
42485-42680.....15
42681-42880.....16
42881-43124.....17
43125-43334.....18
43335-43604.....21

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

2.....40024
3.....40024
11.....40024

3 CFR

Executive Orders:
12154 (See EO 12814).....42483
12543 (See DOT final rule of August 26, 1992).....41696
12722 (See DOT rule of August 21).....39603
12724 (See DOT rule of August 21).....39603
12735 (See State Dept. final rule of Aug. 24).....41077
12775 (See DOT rule of August 17).....39603
12779 (See DOT rule of August 17).....39603
12814.....42483
Administrative Orders:
Presidential Determinations:
No. 91-52 of September 13, 1991 (See Presidential Determination No. 92-45 of August 28, 1992).....43125
No. 92-39 of August 17, 1992.....40071
No. 92-40 of August 17, 1992.....40073
No. 92-42 of August 25, 1992.....40075
No. 92-43 of August 25, 1992.....40077
No. 92-44 of August 25, 1992.....40079
No. 92-45 of August 28, 1992).....43125
No. 92-46 of September 4, 1992.....42881
Notices:
September 18, 1992.....43603
Proclamations:
6467.....40591
6468.....40827
6469.....41051
6470.....41373
6471.....42679
6472.....43127
6473.....43129
6474.....43333

5 CFR

531.....43131
536.....43131
550.....40070, 43131
870.....43131
890.....43131, 43132
Proposed Rules:
532.....42513

7 CFR

2.....40829
210.....40729
301.....42485
319.....43134
723.....43580
800.....40301
916.....42681
917.....42681, 42683
920.....41853, 42684
944.....42685, 42687
966.....42688
967.....42689
980.....42688
987.....43335
1207.....40081
1427.....40593
1464.....43580
1956.....42691
Proposed Rules:
319.....40872
910.....42515
1033.....42899
1036.....42899
1049.....42899
1413.....42899
1744.....39628
1902.....39631
1930.....39631
1944.....39635

8 CFR

204.....41053
209.....42883
214.....40830, 42884
251.....40830
258.....40830
274a.....42884

9 CFR

381.....43588
Proposed Rules:
75.....40139
92.....41549
124.....40493
201.....42515
203.....42515
307.....40623
310.....40623
318.....42885
319.....42885

10 CFR

11.....41375
25.....41376
35.....41376
50.....41378

600.....40083
605.....40582
Proposed Rules:
26.....42901
70.....42901
73.....42901
1023.....40345

11 CFR

200.....39743

12 CFR

3.....40302
204.....40597
217.....43336
225.....41381, 41641
230.....43337
250.....40597, 41643
262.....41641
265.....40597
545.....40085
562.....40085
563.....40085
563c.....40085
571.....40085
603.....42888
611.....43393
612.....43394
614.....43290
619.....43290
701.....42486
935.....42888
940.....42888
Proposed Rules:
3.....42623, 42901
208.....39641, 42623
225.....39641, 42623
325.....42623
363.....42516
509.....40350
516.....40350
517.....42906
528.....40350
541.....40350
543.....40350
545.....40350
552.....40350
556.....40350
558.....40350
559.....40350
561.....40350
563.....40140, 40350, 40524
563b.....40350
563e.....40350
567.....40143, 40147, 40350, 40524
571.....40350, 40524
579.....40350
580.....40350
791.....42532
1625.....39743

13 CFR

121.....41068
Proposed Rules:
108.....43155, 43157

14 CFR

13.....40094
21.....41069, 41072, 41360, 42846
23.....41069, 41072
36.....41360, 42846
39.....40307–40313, 40601, 40835–40838, 42692, 42693, 43291
43.....41360
71.....40095, 40096, 42488
91.....41360, 42662
97.....41074, 41075
121.....42662
125.....42662
135.....42662
147.....41360
200.....40097
203.....40097
205.....40097
206.....40097
231.....40097
232.....40097
263.....40097
288.....40097
294.....40097
296.....40097
297.....40097
298.....40097
302.....40097
372.....40097
399.....40097
1214.....41077, 41854
Proposed Rules:
Ch. I.....41894
39.....40359, 40623, 40624, 41114, 41115, 41439
61.....41974
71.....40148–40156, 41441–41445, 42810
93.....42810
101.....41628
107.....43294
108.....43294
207.....42864
208.....42864
212.....42864
294.....42864
298.....42864
380.....42864
389.....42864

15 CFR

Ch. IX.....43310
60.....40840
770.....41854
771.....41854
773.....41854
776.....41854
779.....41854
786.....41854
799.....41854
944.....43310
Proposed Rules:
799.....41894
806.....43158
946.....40877

16 CFR

305.....41388
1115.....39597
Proposed Rules:
229.....41706
230.....41707
232.....41706

17 CFR

4.....41173
16.....40601
19.....41389
30.....40603
Proposed Rules:
33.....40626

19 CFR

10.....40314, 40604, 43059
24.....42697
122.....43395
141.....40605
145.....40255
171.....40605
172.....40605
Proposed Rules:
4.....40627
101.....42712
141.....40361
142.....40361
143.....40361
146.....41896
151.....40361
191.....41446

20 CFR

655.....40966, 43118, 43495
Proposed Rules:
626.....41447
627.....41447
628.....41447
629.....41447
630.....41447
631.....41447
637.....41447

21 CFR

5.....40315–40318, 43397
177.....43398
310.....41857
520.....42490, 42623
522.....41861, 42623
526.....42623
529.....42489
556.....41861
573.....40318
1308.....43399
Proposed Rules:
131.....40255, 43059
310.....40944
864.....43161
872.....43165
884.....42908

22 CFR

121.....41077

24 CFR

25.....40111
91.....40038
135.....40111
570.....40038
905.....40113

25 CFR

Proposed Rules:
211.....40298
212.....40298

26 CFR

1.....40118, 40319, 40841, 41079, 41644, 42490
602.....40118, 40319, 41079, 41644
Proposed Rules:
1.....39743, 40378, 41707, 41897, 42712, 42720
49.....41549

27 CFR

5.....40323
20.....40847, 42623
53.....40324
70.....40327
194.....39597
Proposed Rules:
4.....40380, 40884
5.....40884
250.....40885
251.....40886
252.....40887
290.....40889

28 CFR

2.....41391–41394
50.....39598
80.....39598
Proposed Rules:
2.....41450

29 CFR

506.....40966, 43495
1910.....42102
1915.....42102
1926.....42102
2200.....41676
2676.....42490
Proposed Rules:
403.....41634
2610.....42910

30 CFR

206.....41862
207.....41862
208.....41862
210.....41862
216.....41862
218.....41862
219.....41862
220.....41862
228.....41862
914.....41869
935.....41690
944.....41692
Proposed Rules:
75.....40395, 42808
400.....43411
609.....43411
651.....43412
917.....41897
920.....41712
950.....41714, 41715

31 CFR

10.....41093
204.....40239
315.....39601
353.....39601
358.....40607
550.....41696
575.....39603
580.....39603
Proposed Rules:
270.....41117

32 CFR

60.....40840
220.....41096
323.....40608
701.....40609
706.....41698
806.....41396
1906.....39604
Proposed Rules:
317.....40397

33 CFR

3.....39613, 42699
64.....43401

100.....40125, 40609, 40610, 41419, 41420
117.....39614, 41873
135.....41104
136.....41104
137.....41104
157.....40494
165.....40125, 40330, 40612, 41421
334.....40612

Proposed Rules:
89.....43169
162.....41899

34 CFR

Proposed Rules:
305.....43572

36 CFR

51.....42808

Proposed Rules:
51.....40496
242.....43074
1191.....41006

37 CFR

1.....40493
2.....40493
202.....39615

Proposed Rules:
1.....41899, 42721, 43412
5.....43412
10.....43412

38 CFR

3.....40944
17.....41700
21.....40613
36.....40615

Proposed Rules:
3.....40424
21.....41451

39 CFR

111.....43403

Proposed Rules:
111.....39646, 40890, 41716

40 CFR

52.....40126, 40331–40336, 42889–42895
55.....40792
62.....43405
136.....41830
148.....41173
156.....42472
170.....42472
180.....40126, 42699, 42700
185.....42700
186.....42700
260.....41173, 41566
261.....41173, 41566
262.....41173
264.....41173, 42832
265.....41173, 42832
266.....41566
268.....41173
270.....41173
271.....41173, 41566, 41699
279.....41566
281.....41874
414.....41836

Proposed Rules:
Ch. I.....42533
52.....40157, 40159, 41716, 42536, 42911, 42913, 43420–43425
60.....43171
61.....43173
62.....40628
122.....41344
180.....40161–40163, 42727–42730
228.....43427
260.....43171
264.....43171
265.....43171
270.....43171
271.....43171
300.....39659, 41452
372.....10820
721.....10820

42 CFR

60.....41875
405.....42491
410.....39743
412.....39746
413.....39746, 42491
414.....42491
415.....42491

Proposed Rules:
100.....41809

43 CFR

Public Land Orders:
6942.....42808
6943.....39616
2460 (Revoked in part by PLO 6945).....43405
6945.....43405

Proposed Rules:
3710.....41846
3800.....42732

44 CFR

64.....39617, 41104, 41875
65.....41877, 41878
67.....39619, 41880

Proposed Rules:

45 CFR

400.....42896
641.....40337
1301.....41881
1302.....41886

46 CFR

30.....41812
32.....41812
35.....41812
67.....43432
70.....41812
78.....41812
90.....41812
97.....41812
107.....41812
108.....41812
109.....41812
167.....41812
169.....41812
170.....41812
171.....41812
184.....41812
185.....41812
188.....41812
196.....41812
272.....39621
298.....39621
510.....39622, 40129
514.....39622
540.....41887
560.....40616
572.....40616
580.....39622
582.....39622
67.....41905

Proposed Rules:

47 CFR

1.....43406
2.....43290
63.....41106, 41109
73.....39624, 39625, 40342, 40849, 41698, 41700, 42510, 42511, 42701, 43290
74.....41110
80.....43406
90.....40850, 42706, 43408
95.....40343
97.....40343

Proposed Rules:
Ch. I.....39661
2.....40630, 42916, 43434
13.....41718
15.....40630
21.....42916
22.....40630, 42916
25.....40425, 40426, 40891
61.....40426
63.....41118
69.....40426
73.....39663, 41719, 41911, 41912, 42536–42538, 42732
94.....42916
99.....40630

48 CFR

30.....43409, 43495
31.....40344
52.....43409, 43495
202.....42626
204.....42626
208.....42626
214.....42626
215.....41422, 42626
216.....42626
219.....42626
223.....42626
225.....42626
226.....42626
227.....42626
228.....42626, 42707
231.....42626
232.....42626, 42707
236.....42626
237.....42626
239.....42626
242.....42626
245.....42626
252.....41422, 42626, 42707
253.....42626
270.....41422
525.....42708
552.....42708
923.....41974
1801.....40851
1803.....40851
1804.....40851
1805.....40851
1806.....40851
1807.....40851
1808.....40851
1809.....40851
1813.....40851
1815.....40851
1816.....40851
1819.....40851
1822.....40851
1823.....40851
1825.....40851
1827.....40851
1831.....40851
1832.....40851
1833.....40851
1836.....40851
1837.....40851
1842.....40851
1845.....40851
1849.....40851
1851.....40851
1852.....40851
1853.....40851
1870.....40851

Proposed Rules:
45.....40891

49 CFR

1.....40620
110.....43062
350.....40946
355.....40946
396.....40946
571.....40131, 41423, 41428
588.....41428
1003.....41111
1023.....43151
1039.....40620
1109.....39743
1313.....40620
1321.....40857, 43059
1313.....43291

Proposed Rules:
174.....42466
177.....42466
192.....41119
218.....41454
571.....40165, 41912
1002.....39743, 41459
1018.....41459
1039.....39663, 41122
1105.....42733
1145.....41122
1150.....42733
1312.....41459
1313.....41459
1314.....41459

50 CFR

20.....40032
204.....40858
216.....41701
217.....40859, 40861, 41703
227.....40859, 40861, 41703
285.....42710, 43409
299.....40858
641.....41892
642.....43153
646.....41892
653.....40134
661.....39626, 40135, 40136, 40622, 41705, 42511
663.....40136, 41112, 42898
672.....40137, 40255
675.....42710, 43154
681.....41112
683.....40255

Proposed Rules:
17.....39664, 40429
100.....43074
216.....40166
217.....41123
227.....41123

228.....42538
611.....40493
685.....40493, 43290

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List September 11, 1992

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
4	(869-017-00003-5)	16.00	Jan. 1, 1992
5 Parts:			
1-699	(869-017-00004-3)	18.00	Jan. 1, 1992
700-1199	(869-017-00005-1)	14.00	Jan. 1, 1992
1200-End, 6 (6 Reserved)	(869-017-00006-0)	19.00	Jan. 1, 1992
7 Parts:			
0-26	(869-017-00007-8)	17.00	Jan. 1, 1992
27-45	(869-017-00008-6)	12.00	Jan. 1, 1992
46-51	(869-017-00009-4)	18.00	Jan. 1, 1992
52	(869-017-00010-8)	24.00	Jan. 1, 1992
53-209	(869-017-00011-6)	19.00	Jan. 1, 1992
210-299	(869-017-00012-4)	26.00	Jan. 1, 1992
300-399	(869-017-00013-2)	13.00	Jan. 1, 1992
400-699	(869-017-00014-1)	15.00	Jan. 1, 1992
700-899	(869-017-00015-9)	18.00	Jan. 1, 1992
900-999	(869-017-00016-7)	29.00	Jan. 1, 1992
1000-1059	(869-017-00017-5)	17.00	Jan. 1, 1992
1060-1119	(869-017-00018-3)	13.00	Jan. 1, 1992
1120-1199	(869-017-00019-1)	9.50	Jan. 1, 1992
1200-1499	(869-017-00020-5)	22.00	Jan. 1, 1992
1500-1899	(869-017-00021-3)	15.00	Jan. 1, 1992
1900-1939	(869-017-00022-1)	11.00	Jan. 1, 1992
1940-1949	(869-017-00023-0)	23.00	Jan. 1, 1992
1950-1999	(869-017-00024-8)	26.00	Jan. 1, 1992
2000-End	(869-017-00025-6)	11.00	Jan. 1, 1992
8	(869-017-00026-4)	17.00	Jan. 1, 1992
9 Parts:			
1-199	(869-017-00027-2)	23.00	Jan. 1, 1992
200-End	(869-017-00028-1)	18.00	Jan. 1, 1992
10 Parts:			
0-50	(869-017-00029-9)	25.00	Jan. 1, 1992
51-199	(869-017-00030-2)	18.00	Jan. 1, 1992
200-399	(869-017-00031-1)	13.00	[4] Jan. 1, 1987
400-499	(869-017-00032-9)	20.00	Jan. 1, 1992
500-End	(869-017-00033-7)	28.00	Jan. 1, 1992
11	(869-017-00034-5)	12.00	Jan. 1, 1992
12 Parts:			
1-199	(869-017-00035-3)	13.00	Jan. 1, 1992
200-219	(869-017-00036-1)	13.00	Jan. 1, 1992
220-299	(869-017-00037-0)	22.00	Jan. 1, 1992
300-499	(869-017-00038-8)	18.00	Jan. 1, 1992
500-599	(869-017-00039-6)	17.00	Jan. 1, 1992
600-End	(869-017-00040-0)	19.00	Jan. 1, 1992
13	(869-017-00041-8)	25.00	Jan. 1, 1992
14 Parts:			
1-59	(869-017-00042-6)	25.00	Jan. 1, 1992
60-139	(869-017-00043-4)	22.00	Jan. 1, 1992
140-199	(869-017-00044-2)	11.00	Jan. 1, 1992
200-1199	(869-017-00045-1)	20.00	Jan. 1, 1992
1200-End	(869-017-00046-9)	14.00	Jan. 1, 1992
15 Parts:			
0-299	(869-017-00047-7)	13.00	Jan. 1, 1992
300-799	(869-017-00048-5)	21.00	Jan. 1, 1992
800-End	(869-017-00049-3)	17.00	Jan. 1, 1992
16 Parts:			
0-149	(869-017-00050-7)	6.00	Jan. 1, 1992
150-999	(869-017-00051-5)	14.00	Jan. 1, 1992
1000-End	(869-017-00052-3)	20.00	Jan. 1, 1992
17 Parts:			
1-199	(869-017-00054-0)	15.00	Apr. 1, 1992
200-239	(869-017-00055-8)	17.00	Apr. 1, 1992
240-End	(869-017-00056-6)	24.00	Apr. 1, 1992
18 Parts:			
1-149	(869-017-00057-4)	16.00	Apr. 1, 1992
150-279	(869-017-00058-2)	19.00	Apr. 1, 1992
280-399	(869-017-00059-1)	14.00	Apr. 1, 1992
400-End	(869-017-00060-4)	9.50	Apr. 1, 1992
19 Parts:			
1-199	(869-017-00061-2)	28.00	Apr. 1, 1992
200-End	(869-017-00062-1)	9.50	Apr. 1, 1992
20 Parts:			
1-399	(869-017-00063-9)	16.00	Apr. 1, 1992
400-499	(869-017-00064-7)	31.00	Apr. 1, 1992
500-End	(869-017-00065-5)	21.00	Apr. 1, 1992
21 Parts:			
1-99	(869-017-00066-3)	13.00	Apr. 1, 1992
100-169	(869-017-00067-1)	14.00	Apr. 1, 1992
170-199	(869-017-00068-0)	18.00	Apr. 1, 1992
200-299	(869-017-00069-8)	5.50	Apr. 1, 1992
300-499	(869-017-00070-1)	29.00	Apr. 1, 1992
500-599	(869-017-00071-0)	21.00	Apr. 1, 1992
600-799	(869-017-00072-8)	7.00	Apr. 1, 1992
800-1299	(869-017-00073-6)	18.00	Apr. 1, 1992
1300-End	(869-017-00074-4)	9.00	Apr. 1, 1992
22 Parts:			
1-299	(869-017-00075-2)	26.00	Apr. 1, 1992
300-End	(869-017-00076-1)	19.00	Apr. 1, 1992
23	(869-017-00077-9)	18.00	Apr. 1, 1992
24 Parts:			
0-199	(869-017-00078-7)	34.00	Apr. 1, 1992
200-499	(869-017-00079-5)	32.00	Apr. 1, 1992
500-699	(869-017-00080-9)	13.00	Apr. 1, 1992
700-1699	(869-017-00081-7)	34.00	Apr. 1, 1992
1700-End	(869-017-00082-5)	13.00	Apr. 1, 1992
25	(869-017-00083-3)	25.00	Apr. 1, 1992
26 Parts:			
§§ 1.0-1-1.60	(869-017-00084-1)	17.00	Apr. 1, 1992
§§ 1.61-1.169	(869-017-00085-0)	33.00	Apr. 1, 1992
§§ 1.170-1.300	(869-017-00086-8)	19.00	Apr. 1, 1992
§§ 1.301-1.400	(869-017-00087-6)	17.00	Apr. 1, 1992
§§ 1.401-1.500	(869-017-00088-4)	38.00	Apr. 1, 1992
§§ 1.501-1.640	(869-017-00089-2)	19.00	Apr. 1, 1992
§§ 1.641-1.850	(869-017-00090-6)	19.00	Apr. 1, 1992
§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-017-00092-2)	26.00	Apr. 1, 1992
§§ 1.1001-1.1400	(869-017-00093-1)	19.00	Apr. 1, 1992
§§ 1.1401-End	(869-017-00094-9)	26.00	Apr. 1, 1992
2-29	(869-017-00095-7)	22.00	Apr. 1, 1992
30-39	(869-017-00096-5)	15.00	Apr. 1, 1992
40-49	(869-017-00097-3)	12.00	Apr. 1, 1992
50-299	(869-017-00098-1)	15.00	Apr. 1, 1992
300-499	(869-017-00099-0)	20.00	Apr. 1, 1992
500-599	(869-017-00100-7)	6.00	[5] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–017–00101–5)	6.50	Apr. 1, 1992
27 Parts:			
1–199	(869–017–00102–3)	34.00	Apr. 1, 1992
200–End	(869–017–00103–1)	11.00	[6]Apr. 1, 1991
28	(869–013–00104–4)	28.00	July 1, 1991
29 Parts:			
0–99	(869–017–00105–8)	19.00	July 1, 1992
100–499	(869–013–00106–6)	9.00	July 1, 1992
500–899	(869–013–00107–9)	27.00	July 1, 1991
900–1899	(869–013–00108–7)	12.00	July 1, 1991
1900–1910 (§§ 1901.1 to 1910.999)	(869–013–00109–5)	24.00	July 1, 1991
1910 (§§ 1910.1000 to end)	(869–013–00110–9)	14.00	July 1, 1991
1911–1925	(869–017–00111–2)	9.00	[7] July 1, 1989
*1926	(869–017–00112–1)	14.00	July 1, 1992
1927–End	(869–013–00113–3)	25.00	July 1, 1991
30 Parts:			
1–199	(869–013–00114–1)	22.00	July 1, 1991
200–699	(869–017–00115–5)	19.00	July 1, 1992
700–End	(869–013–00116–8)	21.00	July 1, 1991
31 Parts:			
0–199	(869–013–00117–6)	15.00	July 1, 1991
*200–End	(869–017–00118–0)	25.00	July 1, 1992
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–189	(869–013–00119–2)	25.00	July 1, 1991
190–399	(869–013–00120–6)	29.00	July 1, 1991
*400–629	(869–017–00121–0)	29.00	July 1, 1992
*630–699	(869–017–00122–8)	14.00	[9] July 1, 1991
700–799	(869–013–00123–1)	17.00	July 1, 1991
800–End	(869–017–00124–4)	20.00	July 1, 1992
33 Parts:			
1–124	(869–013–00125–7)	15.00	July 1, 1991
125–199	(869–013–00126–5)	18.00	July 1, 1991
200–End	(869–017–00127–9)	23.00	July 1, 1992
34 Parts:			
1–299	(869–013–00128–1)	24.00	July 1, 1991
300–399	(869–013–00129–0)	14.00	July 1, 1991
400–End	(869–013–00130–3)	26.00	July 1, 1991
35	(869–013–00131–1)	10.00	July 1, 1991
36 Parts:			
1–199	(869–017–00132–5)	15.00	July 1, 1992
200–End	(869–017–00133–3)	32.00	July 1, 1992
37	(869–013–00134–6)	15.00	July 1, 1991
38 Parts:			
0–17	(869–013–00135–4)	24.00	July 1, 1991
18–End	(869–013–00136–2)	22.00	July 1, 1991
39	(869–017–00137–6)	16.00	July 1, 1992
40 Parts:			
1–51	(869–013–00138–9)	27.00	July 1, 1991
52	(869–013–00139–7)	28.00	July 1, 1991
53–60	(869–013–00140–1)	31.00	July 1, 1991
61–80	(869–013–00141–9)	14.00	July 1, 1991
81–85	(869–013–00142–7)	11.00	July 1, 1991
86–99	(869–013–00143–5)	29.00	July 1, 1991
100–149	(869–013–00144–3)	30.00	July 1, 1991
150–189	(869–013–00145–1)	20.00	July 1, 1991
190–259	(869–013–00146–0)	13.00	July 1, 1991
260–299	(869–013–00147–8)	31.00	July 1, 1991
300–399	(869–013–00148–6)	13.00	July 1, 1991
400–424	(869–017–00149–0)	26.00	July 1, 1992
425–699	(869–013–00150–8)	23.00	[7] July 1, 1989
700–789	(869–013–00151–6)	20.00	July 1, 1991
790–End	(869–013–00152–4)	22.00	July 1, 1991
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
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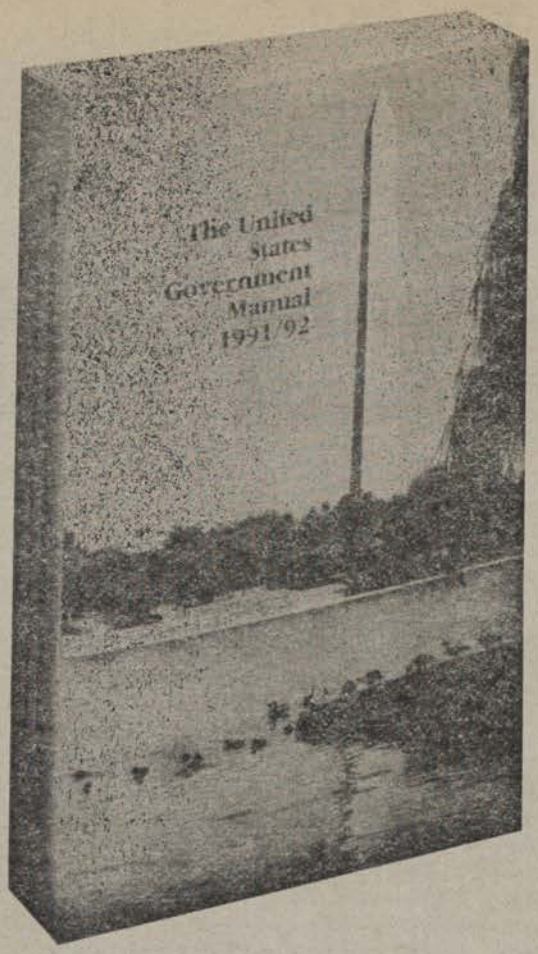

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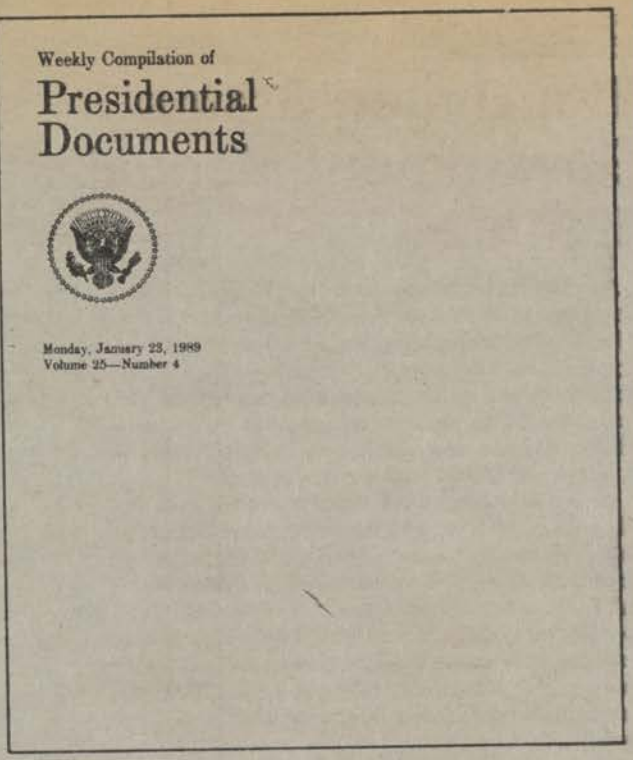

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